

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.6.2016

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.13176 of 2016

S.Manivannan .. Petitioner

Vs.

The Revenue Divisional Officer
Dharmapuri
Dharmapuri District. ... Respondent

Petition under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records relating to the order of rejection passed in Na.Ka.9482/2015/A4 dated 03.12.2015 on the file of the respondent, quash the same and direct the respondent to issue community certificate to the petitioner's children, namely M.Sripriya and M.Veerapathiran that they belong to Kurumans (ST) Community based upon the community certificate already issued to the close relatives of the petitioner.

For Petitioner : Mr.S.Doraisamy
For Respondent : Mrs.Srijayanthi, Spl.G.P.

सत्यमेव जयते
O R D E R

(Made by Huluvadi G.Ramesh,J)

The petitioner has come up with the above writ petition challenging the order of rejection passed by the respondent.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader.

3. According to the petitioner, he belongs to Kurumans community, which is a Scheduled Tribe and the same was recorded in his school records, though he had not obtained any community certificate. He applied to the respondent for the issue of community certificate to his children on 30.5.2014. On

13.5.2015, he was issued with a notice to appear for enquiry on 16.5.2015 with relevant documents. Accordingly, the petitioner appeared before the respondent with his school records containing the name of his community and three community certificates of his close relatives. Since no order was passed on his application, the petitioner preferred a writ petition in W.P.No.29265 of 2015. On 16.9.2015, the writ petition was disposed of directing the respondent to pass orders on the application of the petitioner, after conducting the enquiry as per the guidelines laid down by the Supreme Court in Kumari Madhuri Patil v. Additional Commissioner, Tribal Development, within a period of four weeks. Consequently, on 09.11.2015, the respondent issued notice to the petitioner to appear for enquiry and as such, the petitioner appeared for the enquiry with relevant documents. But, the respondent rejected the documents produced by the petitioner in support of his claim that he belongs to Kurumans community and stated that the petitioner did not belong to Kurumans community, but he belongs to Kurumba, which is a Most Backward Class. Hence, the petitioner is before this Court.

4. The learned counsel for the petitioner contended that the respondent has failed to consider the school records of the petitioner and the community certificates issued in favour of his close relatives and arrived at a conclusion that the petitioner belongs to Kurumba community, which is a Most Backward Class and not Kurumans, which is a Scheduled Tribe and therefore, the order passed by the respondent is bad in law. Relying upon the decision of the Supreme Court and this Court in Kumari Madhuri Patil v. Additional Commissioner Tribal Development [AIR 1995 SC 941] and the order of this Court made in W.P.No.17231 of 2015 dated 12.4.2016, the learned counsel for the petitioner contended that the impugned order of rejection has to be quashed and the matter to be remanded back to the respondent.

5. In G.O.(Ms)No.235, Revenue Department dated 26.6.2015, the Government have specified the Issuing Authorities, Appellate Authorities and Redressal of Grievances with regard to the issue of community certificates for (i) Backward Classes/Most Backward Classes/Denotified Communities, (ii) Scheduled Castes, and (iii) Scheduled Tribes. By G.O.Ms.No.147, Revenue Department, dated 17.3.2016, the Government have amended the authority specified for Redressal of Grievances with regard to Scheduled Tribes alone, as the State Level Scrutiny Committee, instead of District Collector and Chairman, District Level Vigilance Committee.

6. As per the amended Government Order, in respect of the Scheduled Tribes, the Authority to issue community certificate is the Revenue Divisional Officer, the Appellate Authority is

the District Collector and the authority for Redressal of Grievances is State Level Scrutiny Committee. In the case on hand, it is only the Revenue Divisional Officer who held enquiry and passed orders rejecting the request of the petitioner to issue community certificate certifying that the petitioner belong to Kurumans, which is a Scheduled Tribe. As against the same, the appeal lies to the District Collector and thereafter, to the State Level Scrutiny Committee.

7. In view of the above, we dispose of this writ petition, directing the petitioner to prefer an appeal to the Appellate Authority within one month from the date of receipt of a copy of this order and thereafter, directing the Appellate Authority to consider and pass orders on the appeal preferred by the petitioner, after holding due enquiry and affording opportunity to the petitioner. There shall be no order as to costs.

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

kpl

To
The Revenue Divisional Officer
Dharmapuri
Dharmapuri District.

+1 cc to Mr.S.Doraisamy Advocate sr.29453

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W.P.No.13176 of 2016.

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