

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE DR. JUSTICE P. DEVADASS

W.P. No.1402 of 2016

T. Sambath Kumar

Petitioner

Vs.

1.The Revenue Divisional Officer
Tindivanam
Villupuram District

2.The Director
Tribal Research centre,
M.Palada, Udhagamandalam 4.

Respondent

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus, calling for the records relating to the order of rejection passed in proceedings in Na.Ka.A2/218/15 dated 16.03.2015 on the file of the first respondent, quash the same and direct the first respondent to issue community certificate to the petitioner and his daughters S.K. Pradeeksha and S.K. Hanuksha that they belong to Kattunayakan (ST) community, based upon the community certificate already issued to the petitioner's father and his wife.

For petitioner Mr. S. Doraisamy

For respondent Mr. N. Sakthivel
Government Advocate

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. N. Sakthivel, learned Government Advocate, accepts notice for the respondent. With the consent of the learned

counsel on either side, the writ petition is taken up for final disposal, at the admission stage itself.

2 This writ petition is filed calling in question, the justifiability of the order of rejection dated 16 March 2015 passed by the first respondent and for a direction to the first respondent to issue Kattunayakan (ST) community certificate to the petitioner and his daughters S.K. Pradeeksha and S.K. Hanuksha, based upon the community certificate already issued to the petitioner's father and the petitioner's wife.

3 The petitioner, claiming to be belonging to Kattunayakan (ST) community, made an application dated 29 August 2012 before the first respondent, seeking such certificate to himself and his children. Finding no response, he addressed a reminder dated 09 September 2013. Since his application was not considered even after his reminder, he preferred a writ petition being W.P. No.29397 of 2013 seeking a direction for disposal of his application. Eventually, the impugned order has come to be passed rejecting the petitioner's application. Hence, the present writ petition seeking the aforestated relief.

4 The learned counsel for the petitioner submits that the petitioner, together with his application dated 29 August 2012 seeking Kattunayakan (ST) community certificate to himself and his children, has enclosed several documents, including a copy of valid community certificate dated 30 December 1997 issued in favour of his father and also a copy of community certificate dated 05 February 1993 issued in favour of his wife. However, the first respondent, without considering the said documents and also other relevant documents, has rejected the petitioner's application in a casual manner without application of mind.

5 In oppugnation, Mr. N. Sakthivel, learned Government Advocate appearing for the respondents submits that the documents relied on by the learned counsel for the petitioner were not produced before the authority and as such, the same could not be considered. However, if the petitioner is willing to produce the community certificates relied on by him, in original, the same shall be examined in the light of several decisions rendered by this Court.

6 We have considered the submissions advanced by the learned counsel for the parties and also perused the pleadings and documents appended thereto.

7 On a perusal of the materials available on record, it is noticed that the petitioner has sent a reminder on 09

September 2013, enclosing a copy of the community certificate issued to his father Thulasi Dass and also other relevant documents. But, it is not evident from a perusal of the impugned order that all the documents tendered by the petitioner were examined by the first respondent, properly. It is further noticed that the petitioner has approached this Court earlier in W.P. No.29397 of 2013, wherein, this Court has directed the authority to examine the petitioner's case in accordance with law. Despite such a clear direction from this Court, the authority has passed the impugned order in a casual and stereotyped manner.

8 We are not satisfied with the way the impugned order is passed by the first respondent. We have, time and again, held that if a community certificate is issued in favour of a father by a competent authority, the other competent authority, while examining the application for issuance of such certificate for his children, cannot wish away the said certificate on any ground, unless the same is set aside by a higher authority. It is well established that children of a particular community/group/family derive their social status from their parents. In the case on hand, when the petitioner has produced a copy of the community certificate issued to his father, there is no reason to reject his application seeking such certificate to him and his children.

9 Needless to state that if any doubt crops up in the mind of the competent authority qua the genuineness of the community certificate relied on by the petitioner, while considering his application for grant of the same certificate for himself and his children, 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 qua the genuineness of the community certificate relied on by the petitioner, he has no competence to wish away 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.

10 In view of the foregoing, the impugned order dated 16 March 2015 passed by the first respondent is set aside and the matter is remitted back to the first respondent for consideration afresh and passing appropriate orders within a period of two months from the date of receipt of a copy of this order, in the light of the order dated 21 December 2015 passed by this Bench in G.Venkitasamy and V. Balasubramaniam vs. The

Chairman, State Level Scrutiny Committee and Secretary to Government, Adi Dravidar and Tribal Welfare Department, Namakkal Kavingar Maaligai, Fort St. George, Chennai - 9¹.

The writ petition stands disposed of with the above direction. Costs made easy.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

cad

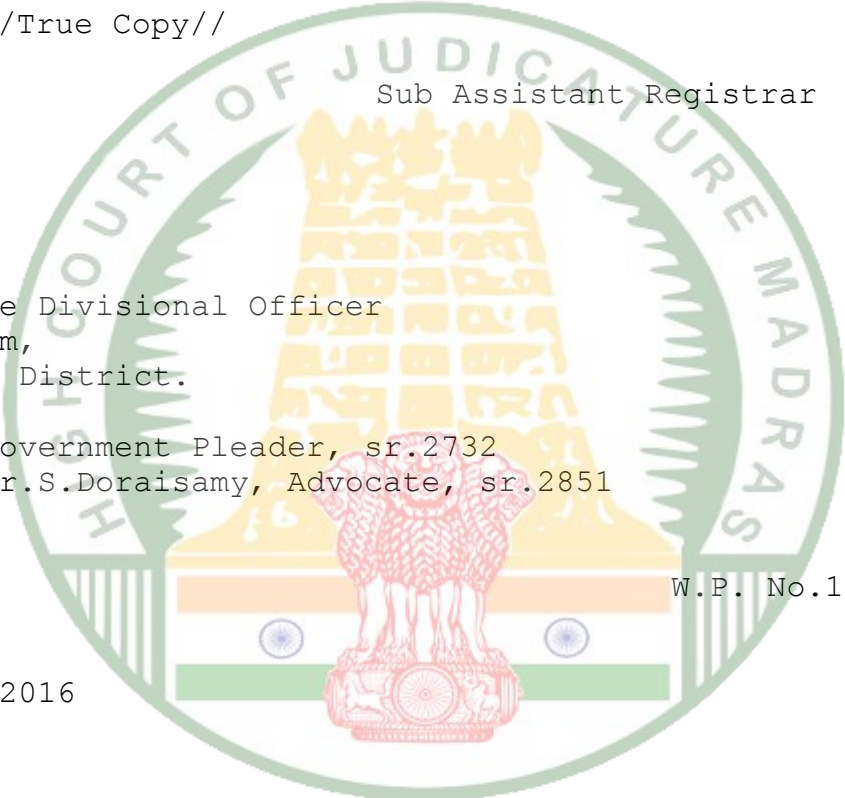
To

The Revenue Divisional Officer
Thindivanam,
Villupuram District.

+1 cc to Government Pleader, sr.2732
+1 cc to Mr.S.Doraisamy, Advocate, sr.2851

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1 W.P. Nos.30368 and 31973 of 2015