

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2016

CORAM

THE HON'BLE MR. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

W.P. No.16203 of 2016

N.Madhavan

.. Petitioner

Vs.

The Sub Divisional Magistrate and
Assistant Collector,
Tirupattur, Vellore District - 635 601.

.. Respondent

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records in the order bearing RC.No.A1/3839/2015 dated 08.03.2016 passed by the respondent and quash the same and direct the respondent to issue a Kurumans Scheduled Tribe Community Certificate to the petitioner.

For Petitioner .. Mr.M.Radhakrishnan

For Respondent .. Mr.P.S.Sivashanmugha Sundaram,
Spl. Govt. Pleader

ORDER

(Order of the Court was made by SATISH K.AGNIHOTRI, J.)

Mr.P.S.Sivashanmugha Sundaram, learned Special Government Pleader accepts notice on behalf of the respondent. Thus, with the consent of the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondent, the writ petition is taken up for final disposal at the admission stage.

2.Assailing the validity and legality of the order dated 08 March 2016 and for a consequential direction to the respondent to issue community certificate to the petitioner that he belongs to Kurumans (Scheduled Tribe), the instant writ petition is filed.

3.The petitioner has approached this Court in W.P.No.5039 of 2016, questioning the validity of the order dated 21 December 2015 passed by the Assistant Collector, Tirupattur and also for a direction to issue Kurumans Scheduled Tribe community certificate to him. A Division Bench of this Court, wherein one of us (Satish K.Agnihotri, J.) was a member, on examination of all aspects of the matter, passed the following order:

"5.Pursuant to the aforesaid order of this Court, the memo sought to be impugned herein has been passed by the first respondent. The impugned memo does not indicate as to whether relationship of the petitioner with his relative whose community certificate has been duly verified and confirmed by the District Vigilance Committee, was examined before the petitioner's application was rejected. It is also not reflected in the impugned memo as to what reports were submitted by other concerned authorities. Seemingly, the first respondent is ignorant of the requirements of examination of an application for issuance of community certificate.

6.Accordingly, we set aside the impugned memo passed by the first respondent and direct the first respondent to examine the relationship of the petitioner with his relative, whose community certificate has been duly verified and confirmed by the District Vigilance Committee and take a decision in accordance with law and in the light of the decision of this Court 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 petitioner is directed to submit all the required documents to the first respondent within a period of one week and within a period of two weeks thereafter, the first respondent is directed to pass appropriate orders, as aforestated."

4.The aforestated order had attained finality as the order was not appealed in any superior forum. On examination, the first respondent, re-opened the issue of confirmation of the certificate granted to Mr.V.Parthasarathy, which stood confirmed by reference in our earlier order. What the Court has observed is that it is open to the authority to examine the relationship. The other issue in respect of confirmation of the certificate granted to Mr.V.Parthasarathy stood concluded. But the authority again attempted to examine the validity of the certificate,

1 2016-1-L.W. 289 : (2016) 1 MLJ 606

asking production of a copy of the same as aforesaid, which stood concluded and it was not open to the authority to question the said certificate. It was also held that Mr.V.Parthasarathy is the paternal uncle's son of the petitioner. Being the paternal uncle's son, the community is one and the same and as such, the order is unsustainable in the eyes of law. Accordingly, we set aside the impugned order and direct the authority to examine the issue and also examine the relationship and pass an appropriate order within a period of four weeks from the date of receipt of a copy of this order.

5.With the aforesaid observation and direction, the writ petition stands disposed of. No costs.

mmi

-s/d-

Assistant Registrar (CS-VI)

True Copy

Sub-Assistant Registrar

To

The Sub Divisional Magistrate and
Assistant Collector,
Tirupattur, Vellore District - 635 601.

+ 1 cc to Mr.M.Radhakrishnan, Advocate SR 27052

+ 1 cc to the Govt.Pleader SR 27381

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W.P. No.16203 of 2016

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