

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2016

CORAM

THE HON'BLE Mr. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE Dr. JUSTICE P.DEVADASS

W.P.No.17585 of 2014
and
M.P.No.1 of 2014

T.Kottaiyan

... Petitioner

Vs.

1.The District Collector,
Chennai - 1.

2.The Tahsildar,
Purasai Perambur Taluk,
Chennai.

3.The Revenue Divisional Officer,
Kallakurichi,
Villupuram District.

4.The District Collector,
Villupuram District.

5.The Chairman cum Secretary,
State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare
Department, Secretariat,
Fort St. George, Chennai - 9.

.. Respondents

(R4 & R5 impleaded vide order
dated 17.09.2014 made in
M.P.No.2 of 2014 in W.P.No.17585
of 2014)

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the third respondent made in Na.Ka.A7/4747/2012 dated 09.06.2013 and quash the same and consequently direct the third respondent to conduct proper enquiry with the help of State Level Scrutiny Committee to issue

community certificate to the petitioner's two children namely Bhuvaneswari and Tamilselvan as belonging to 'Malakuravan' community.

For Petitioner .. Mr.T.Chandrasekaran

For Respondents .. Mr.N.Sakthivel,
Govt. Advocate

ORDER

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

With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal.

2.Assailing the order of the third respondent dated 09 June 2013 and for a further direction to the third respondent to issue community certificates to the petitioner's children to the effect that they are belonging to 'Malakuravan' community, the present writ petition is filed.

3.The petitioner, claiming to be belonging to Malakuravan community, which is recognised as a Scheduled Tribe, and on the basis of the community certificate issued to him, has made an application to the first respondent/District Collector on 23 January 2003, seeking issuance of such community certificates to his children viz., Bhuvaneswari and Tamilselvan. The petitioner was directed to approach the concerned Revenue Divisional Officer and accordingly, he made a representation dated 03 July 2007 to the third respondent. Since no action was taken on his application, the petitioner preferred a writ petition in W.P.No.29981 of 2012 and the said writ petition was disposed of by a Division Bench of this Court by order dated 27 November 2012, with a direction to approach the third respondent. The petitioner has also filed a contempt petition in Contempt Petition No.1175 of 2013 for non-compliance of the order dated 27 November 2012 and the same was closed, based on the impugned order dated 09 June 2013, with liberty to the petitioner to work out his remedy. Hence the present writ petition.

4.From a perusal of records, it is eloquent that in support of his claim that he belongs to Malakuravan community, the petitioner has enclosed with his application, his community certificate as well as the community certificates issued to his relatives by the Revenue Divisional Officer, Kallakurichi.

5.The application of the petitioner, seeking issuance of community certificate to his children, was rejected by the third

respondent/Revenue Divisional Officer, Kallakurichi, stating that various cases were filed before this Court against the issuance of Hindu Malaikuravan community certificates by the Tahsildar level Officer in Kallakurichi Division and as per the direction of this Court, it was placed before the Villupuram District Awareness Committee and the order of cancellation made by the Revenue Divisional Officer was confirmed by the Committee. The said stand taken by the third respondent is unsustainable.

6. We have been repeatedly observing that a community comprises not only the members of the family, but, also the members of the same group or tribe. In the case on hand, when the petitioner has been issued with community certificate recognising his community as Malakuravan community, as a natural corollary, his children are also entitled to get such community status.

7. Needless to state that if any doubt crops up in the mind of the competent authority qua the genuineness of the community certificate issued to the petitioner, while considering the petitioner's application for grant of the same certificate for 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 dis-crediting 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 issued to 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.

8. In view of the foregoing, the impugned order dated 09 June 2013 is quashed and the matter is remitted back to the concerned authority for passing orders afresh. We direct the authority to conduct enquiry in accordance with the guidelines laid down by this Division Bench in G.Venkitasamy Vs. The Chairman, State Level Scrutiny Committee, Chennai¹. We further direct the authority to pass an appropriate order on the application of the petitioner for issuance of Malakuravan community certificate to his children in accordance with law and on its own merits, within a period of two weeks from the date of receipt of a copy of this order.

9. The writ petition stands disposed of with the above

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

direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

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+1 cc to Government Pleader, sr.269

+1 cc to Mr.T.Chandrasekaran, Advocate, 118

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kra 20.01.2016

W.P.No.17585 of 2014

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