

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2016

CORAM:

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

W.P.No.5697 of 2015

K.Lakshmi ... Petitioner

vs.

The Sub Collector,  
Hosur,  
Krishnagiri District ... Respondent

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, calling for the records relating to the order of rejection passed in proceedings in Na.Ka.2972/2014(A2), dated 05.02.2015, on the file of the respondent, quash the same and direct the respondent to issue community certificate to the petitioner and her children viz., (1) M.Rukmani, 2)M.Renuka and 3)M.Naveen that they belong to Kurichchan (ST) Community based upon the community certificates already issued to the petitioner's blood relatives.

For Petitioner : Mr.V.Elangovan

For Respondent : Mr.R.Prathapkumar,A.G.P.

ORDER

(Order of the Court was made by HULUVADI G.RAMESH,J.)

The petitioner seeks for issuance of a writ of certiorarified mandamus, to call for the records relating to the order of rejection passed in proceedings No.Na.Ka.2972/2014(A2), dated 05.02.2015, on the file of the respondent, quash the same and to direct the respondent to issue community certificate to the petitioner, her children viz., (1) M.Rukmani, 2)M.Renuka and 3)M.Naveen stating that they belong to "Kurichchan (ST) Community".

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader taking notice on behalf of the respondent.

3. The petitioner claims to belong to Kurichchan Scheduled Tribe community and she had applied to the respondent on 16.07.2014, seeking for issuance of Kurichchan Scheduled Tribe community certificate to herself, her children, namely, (1) M.Rukmani, 2) M.Renuka and 3) M.Naveen, by enclosing the relevant documents. As the said application was not considered, she was constrained to file W.P.No.25458 of 2014, seeking for a direction to the respondent herein to consider her pending application and this Court by order dated 31.10.2014, directed the respondent herein to pass appropriate orders on the petitioner's application within a period of four weeks. However, the application was rejected by the respondent, by way of passing the impugned order, which is under challenge in this writ petition on the ground that the respondent, without properly considering the documents produced by the petitioner, has rejected her application.

4. Mr.R.Prathapkumar, learned Additional Government Pleader, who was directed to take notice for the respondent, submits that as far as issuance of community certificate to Schedule Tribe is concerned, Revenue Divisional Officer is the issuing authority, the District Collector is the appellate authority and the Redressal of Grievance authority is the State Level Scrutiny Committee.

5. We have gone through the impugned order of the respondent dated 05.02.2015.

6. It is relevant herein to follow the judgment of a Division Bench of this Court in W.P.Nos.30368 and 31973 of 2015 dated 21.12.2015, dated 21.12.2015 in the case of G.Venkitasamy Vs. The Chairman, State Level Scrutiny Committee and Secretary to Government, Adi Dravidar and Tribal Welfare Department, wherein, this court directed the respondents therein to adhere the following guidelines while issuing community certificate.

" 29. From the aforesaid analysis, it is manifest that the authorities are required to investigate, identify and conduct the enquiry in the following manner:

i The authority competent to issue the community certificate, on receipt of the application, shall investigate the application in an open and transparent fashion, affording opportunity of hearing.

ii The candidate shall have full liberty to explain the documents placed by him or collected by the investigating agency and he shall have opportunity to cross examine the witnesses, if required. The entire exercise shall be completed at the earliest, preferably, within a period of three months.

iii On receipt of the community certificate issued by the competent authority, the candidate or any other party interested therein may refer the matter to the State Level Scrutiny Committee for verification.

iv On receipt of the application for verification, the State Level Scrutiny Committee shall refer the matter to the Vigilance Cell for enquiry.

v The Vigilance Cell, as constituted, shall investigate into the social status claim of the applicant, visiting the local place of residence and original place from which the candidate hails and usually resides. The Vigilance Officer, assisted by the Inspector of Police, shall verify all the documents and collect relevant facts in an open and transparent manner from all the relevant places such as school, locality, etc. and persons such as parents and close relatives and also examine the school officials, parents/guardians and other close relatives of the concerned caste. The Vigilance Cell shall also record the anthropological and ethnological traits and rituals, customs, mode of marriage and other ceremonies of the community claimed by the candidate. Thereafter, on receipt of explanation from the candidate, on a proper examination of the same, a reasoned report shall be submitted to the State Level Scrutiny Committee.

vi The State Level Scrutiny Committee, on receipt of the Vigilance Cell report, if it is found adverse, shall issue a show cause notice to the candidate with a copy of the report and all the documents submitted by the Vigilance Cell to the concerned candidate, calling upon him to file his reply/explanation/representation and also express his intention to examine witnesses, if necessary. In the event, the report supports the claim of the candidate, the State Level Scrutiny Committee shall not proceed further, but, to pass the order.

vii The State Level Scrutiny Committee, on completion of the enquiry, shall send a copy of the proceedings/order to the candidate within a period of two weeks.

viii Such verification shall be completed within a period of two months, after receipt of the Vigilance Cell report, preferably, by day-to-day proceedings [See paragraph 13(9) of Kumari Madhuri Patil (supra)].

30. All the authorities involved in the process shall adhere to the aforesaid parameters, which are supplemental to the guidelines laid down by the Supreme Court in Kumari Madhuri Patil and another vs. Addl. Commissioner, Tribal Development and Others, (1994) 6 SCC 241 and Anand Vs. committee for Scrutiny and Verification of Tribe Claims and Others (2012) 1 SCC 113 in their letter and spirit."

7. For the aforesaid reasons, the impugned order is set aside and the matter is remanded to the respondent, who shall do the needful in coordination with the concerned Revenue Divisional Officer and pass necessary orders within two months from the date of receipt of a copy of this order. The petitioner is also directed to submit relevant documents before the authorities and substantiate his claim.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msk  
To

The Sub Collector,  
Hosur,  
Krishnagiri District

+1cc to the Government Pleader, High Court Madras

SS(CO)  
BB(29/12/2016)

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