

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.24096 of 2016
and
WMP.Nos.20622 and 20623 of 2016

S.Sambath

...Petitioner

Vs.

- 1.The District Collector-cum-District Magistrate,
Government of Puducherry, Karaikal.
- 2.The Sub Collector,
Office of the Sub Collector,
Government of Puducherry,
Karaikal.
- 3.The Deputy Collector (Revenue)
Government of Puducherry,
Office of the Deputy Collector (Revenue)
Karaikal.
- 4.The Tahsildar,
Government of Puducherry,
Taluk Office, Karaikal.

5.M.Subramanian

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records, which relates to the impugned order dated 07.02.2016 bearing Ref.No.8032/CK/A3/2015 passed in Appeal No.2 of 2015 passed by the first respondent herein and quash the same and consequently direct the fourth respondent herein to issue the community certificate as scheduled caste of origin at Union Territory of Puducherry to the petitioner and his legal heirs.

For Petitioner : Mr.G.K.Ilanthiraiyan for
M/s.Sai Bharath and Ilan

For R1 to R4 : Mr.M.Govindaraj
Government Pleader (Puducherry)

ORDER

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

Mr.M.Govindaraj, learned Government Pleader (Puducherry), accepts notice on behalf of respondents 1 to 4. Notice to the fifth respondent is dispensed with. With the consent of the learned counsel for the petitioner and the learned Government Pleader (Puducherry) appearing for respondents 1 to 4, the writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner has filed this Writ Petition challenging the order of the first respondent dated 07.02.2016 in Ref.No.8032/CK/A3/2015 in Appeal No.2 of 2015 and consequently directing the fourth respondent to issue a community certificate as Scheduled Caste of Origin at Union Territory of Puducherry to the petitioner and his legal heirs.

3. The case of the petitioner, as averred in the Writ Petition is as follows:

(i) The petitioner belongs to Pallan Caste, which is notified as Scheduled Caste and he along with his family has been residing at Karaikal since 1957. He has also completed his school and college studies at Karaikal. After completing his degree, he has undergone Pharmacist course at Madurai between 1975 to 1977. However, his family members were residing at Karaikal. Thereafter, he got employment as Pharmacist in JIPMER Hospital and worked in such capacity from May 1978 to September 1978. Subsequently, he was appointed as Pharmacist in the Pondicherry Government Service in September 1978 and he retired from service as Chief Pharmacist.

(ii) While he was pursuing his employment and promotion, he was issued with community certificate from time to time. When there was a chance for promotion as Chief Pharmacist, he applied for community certificate on 12.02.2008 before the fourth respondent, who did not consider his application. Hence, the petitioner approached this Court by way of W.P.No.8648 of 2010, which was disposed of, by directing the fourth respondent to consider the petitioner's case and pass orders in accordance with law. Pursuant to the said direction, the fourth respondent

rejected the petitioner's application by order dated 25.06.2010. Aggrieved over the same, the petitioner filed an appeal before the third respondent, who considered the appeal and directed the fourth respondent to issue community certificate by origin of Union Territory of Puducherry. Accordingly, he was issued with a community certificate as Scheduled Caste by origin of Puducherry.

(iii) In the mean while, the fifth respondent, who is junior to the petitioner as Pharmacist, filed an application in O.A.No.73 of 2013 before the Central Administrative Tribunal, Madras Bench for declaring the promotion given to the petitioner as Chief Pharmacist against the reserved vacancy of Scheduled Caste candidate as illegal and invalid. The said Original Application was dismissed by an order dated 26.03.2014. Simultaneously, he also filed an appeal against the order of the third respondent dated 23.02.2011 directing the fourth respondent to issue a Scheduled Caste Community certificate to the petitioner. The said appeal was dismissed, which was challenged by the fifth respondent before the second respondent, who also dismissed the appeal. Suppressing all the proceedings initiated by the fifth respondent, he filed an appeal before the first respondent against the order passed by the third respondent dated 23.02.2011. By order dated 07.02.2016, the first respondent allowed the appeal and set aside the order passed by the third respondent and thereby cancelled the Scheduled Caste certificate issued to the petitioner. Aggrieved over the same, the petitioner is before this Court with the present writ petition.

4. Learned counsel for the petitioner submits that though the petitioner belongs to Scheduled Caste community and he along with his family has been residing at Karaikal since 1957, the first respondent, without properly considering the same and without providing reasonable opportunity to the petitioner and also without constituting a District Level Committee for verification about the status of the petitioner, passed the impugned order, by cancelling the Scheduled Caste community certificate issued to the petitioner, due to which, not only the petitioner, but also his legal heirs are unable to get the benefits available to them.

5. Learned Government Pleader (Puducherry) appearing for respondents 1 to 4, submits that the first respondent has considered properly, following the guidelines prescribed for cancellation of Scheduled Caste, Scheduled Tribe and all other Caste/Community certificate by the Department of Revenue and Disaster Management, Puducherry, has passed the impugned order against the petitioner.

6. We have heard the submissions made on either side and perused the available materials.

7. A perusal of the order impugned herein would reveal that before passing the impugned order, the first respondent has not strictly followed the relevant guidelines issued for cancellation of the community certificate. As such, we find some irregularity in the said decision taken by the first respondent. On this score alone, the impugned order is liable to be set aside.

8. Accordingly, the writ petition is allowed. The order dated 07.02.2016 passed by the first respondent is set aside and the matter is remitted back to the first respondent for passing fresh orders. The first respondent is directed to consider the case of the petitioner regarding issuance of community certificate as Scheduled Caste of origin at Union Territory of Puducherry, after constituting a District Level Committee for verification and after issuing notice and providing an opportunity of personal hearing to the petitioner as well as to the fifth respondent and pass appropriate orders, on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this order. It is left open to the petitioner to raise all the contentions available to him. No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The District Collector-cum-District Magistrate,
Government of Puducherry, Karaikal.

2.The Sub Collector,
Office of the Sub Collector,
Government of Puducherry, Karaikal.

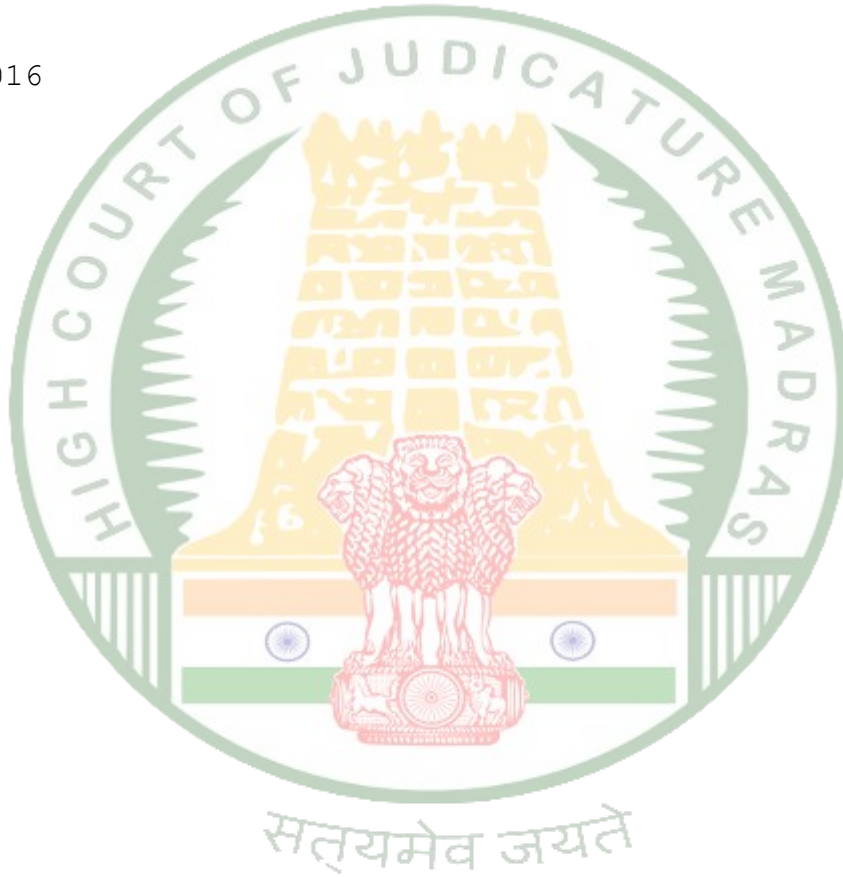
3.The Deputy Collector (Revenue)
Government of Puducherry,
Office of the Deputy Collector (Revenue)
Karaikal.

4.The Tahsildar,
Government of Puducherry,
Taluk Office, Karaikal.

+1 cc to M/s.Sai Bharath & Ilan Advocate sr.39427

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