

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2016

CORAM

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

Writ Petition No.26607 of 2016

K.Murali

...Petitioner

Vs.

1.State Level Scrutiny Committee

Rep. By its Chairman and Secretary to Government
Adi Dravidar and Tribal Welfare Department
Secretariat, Chennai-600 009

2.The Sub-Collector

Tirupattur, Vellore Dist.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to pass orders on the verification of community certificate issued by R.D.O.Tiruchirapalli dated 11.04.1994 vide A4/9765/9304 No.2692060 as indicated by the communication of the 2nd respondent in R.C.A4/1308/2014 dated 18.08.2014 for the issuance of community certificate to the petitioner's children viz., M.G.Vibichandra and M.G.Vishwachandra that they belong to "Kattunayakan (ST) community.

For Petitioner : Mr.K.Doraisamy, Senior counsel
for M/s.Muthumani Doraisami

For Respondents : Mrs.A.Srijayanthi, Spl.G.P.

O R D E R

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

Heard the learned counsel for the petitioner and Mrs.A.Srijayanthi, learned Special Government Pleader, who accepts notice on behalf of the respondents.

2. This Writ Petition is filed praying to issue a Writ of Mandamus to direct the 1st respondent to pass orders on the verification of community certificate issued by R.D.O., Tiruchirapalli dated 11.04.1994 vide A4/9765/9304 No.2692060 as

indicated by the communication of the 2nd respondent in R.C.A4/1308/2014 dated 18.08.2014 for the issuance of community certificate to the petitioner's children viz., M.G.Vibichandra and M.G.Vishwachandra that they belong to "Kattunayakan (ST) community.

3. The petitioner preferred an application to the second respondent on 02.12.2013 requesting to issue community certificate to his children and submitted necessary documents. Since no action was taken by the second respondent, the petitioner filed W.P.No.9202 of 2014 before this court seeking issuance of community certificate and this court, by order dated 28.03.2014, disposed of the said writ petition directing the respondent therein to dispose of the application. Thereafter, the 2nd respondent issued notice calling for an enquiry to be held on 14.06.2014 and as such, the petitioner's wife appeared before the 2nd respondent on 14.06.2014 and submitted several documents in support of their claim. Thereafter, a communication dated 18.08.2014 and 30.01.2015 was sent by 2nd respondent to the 1st respondent and the matter is pending.

4. Mrs.A.Srijayanthi, learned Special Government Pleader, who was directed to take notice for the respondent, submits that as far as issue 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 communication of the 2nd respondent dated 18.08.2014, wherein, it is stated as under:-

"As per the directions of the Hon'ble High Court in Vinoth Vs. Sub Collector, Ranipettai in W.P.20277 of 2011, wherein, it is laid down that, if the father is issued with a certificate and the genuineness of the same is disputed, the only course open to the R.D.O., is to send the certificate for verification to the scrutiny committee. It was reiterated that it is only the scrutiny committee and not the R.D.O., who can examine the genuineness of any community certificate. Following the guidelines given by the Hon'ble High Court, the certificate produced by the petitioner issued by the R.D.O.Tiruchirapalli dated 11.04.1994 vide A4/9765/9304 no.2692060, is forwarded to the State Scrutiny Committee for verification. Upon receipt of the findings of the State Scrutiny committee, further action will be taken up. "

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, we hereby direct the 2nd respondent who already in receipt of application seeking issuance of "Kattunayakan (ST) community", after scrutiny and verification, 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.

8. The Writ Petition is disposed of with the above direction. No costs.

nvsri

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

1. The Chairman and Secretary to Government
State Level Scrutiny Committee
Adi Dravidar and Tribal Welfare Department
Secretariat, Chennai-600 009

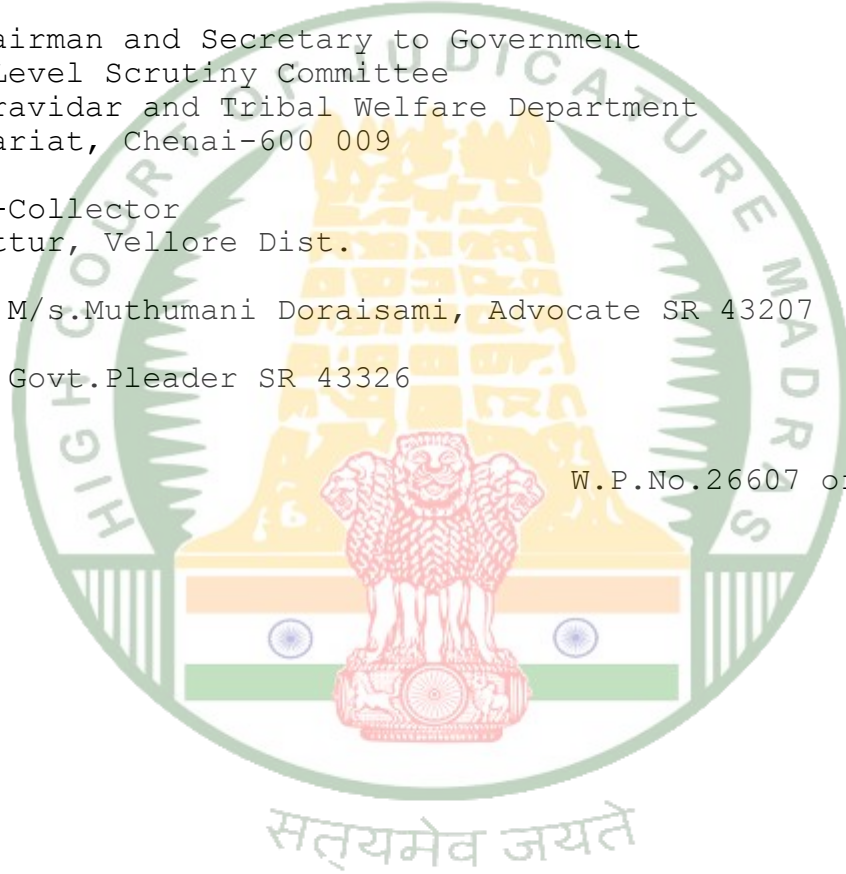
2.The Sub-Collector
Tirupattur, Vellore Dist.

+ 1 cc to M/s.Muthumani Doraisami, Advocate SR 43207

+ 1 cc to Govt.Pleader SR 43326

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