

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition Nos.29138 and 29139 of 2016

Govindaraju
M.Samraj

...Petitioner in W.P.29138/2016

...Petitioner in W.P.29139/2016

Vs.

The Revenue Divisional Officer
Dharmapuri
Dharmapuri District

...Respondent in both
Writ Petitions.

Prayer in W.P.No.29138 of 2016:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order of rejection passed in proceedings in Na.Ka.10229/2015/A4 dated 03.03.2016 on the file of the respondent, quash the same and direct the respondent to issue community certificate to the petitioner's sons viz., (1) G.Ezhilarasan and (2) G.Nirmal Kumar that they belong to Kurumans (ST) Community based upon the community certificate already issued to the petitioner and his brother Samraj.

Prayer in W.P.No.29139 of 2016:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order of rejection passed in proceedings in Na.Ka.10228/2015/A4 dated 03.03.2016 on the file of the respondent, quash the same and direct the respondent to issue community certificate to the petitioner's children viz., (1) S.Nethish Kumar and (2) S.Bhoomika that they belong to Kurumans (ST) Community based upon the community certificate already issued to the petitioner and his brother Govindaraj.

For Petitioner : Mr.V.Elangovan

For Respondent : Ms.R.Lalitha, Government Advocate

COMMON ORDER

(Order of the Court was made by R.SUBBIAH,J.)

Heard the learned counsel for the petitioners and Ms.R.Lalitha, learned Government Advocate, who accepts notice on behalf of the respondent.

2. These Writ Petitions are filed challenging the proceedings dated 03.03.2016 passed by the respondent and for a direction to the respondent to issue community certificate to the petitioners' children that they belong to Kurumans (ST) Community based upon the community certificate already issued to the petitioners.

3. The brief facts of the case of the petitioner in W.P.No.29138 of 2016 is as follows:

The petitioner belongs to Kurumans Community, which is a Scheduled Tribe Community; his community is entered as Kurumans (ST) and obtained community certificate from the respondent on 04.03.1996. The petitioner preferred application to the respondent on 01.06.2015 requesting to issue community certificate to his children viz., (1)G.Ezhilarasan and (2) G.Nirmal Kumar that they belong to Kurumans (ST) Community. Along with the application, the petitioner has enclosed the following documents in support of his claim:-

- (i) Community Certificate dated 04.03.1996.
- (ii) Community Certificate of petitioner's brother Samraj issued by the RDO, Dharmapuri, dated 04.03.1996.
- (iii) Sale deed dated 29.03.1985 executed in favour of petitioner's mother-in-law Madhammal in which her community is entered as Kurumans.
- (iv) Sale deed dated 24.03.1988 executed in favour of petitioner's father Madhu in which his community is entered as Kurumans.

According to the petitioner, since no order has been passed by the respondent on the said application, he filed W.P.No.30732 of 2015, wherein, this court, by order dated 30.09.2015, directed the respondent to consider and pass orders on the petitioner's application dated 06 June 2015. Thereafter, the respondent passed an order on 03.03.2016 stating that the matter has been referred to the State Level Scrutiny Committee, against which, the Writ Petition No.29138 of 2016 is filed.

(ii) In so far as the case of petitioner viz., M.Samraj, in W.P.No.29139 of 2016 is concerned, it is stated that he belongs to Kurumans Community, which is a Scheduled Tribe community; in his school records, community is entered as Kurumans(ST)

community. It is further stated that the petitioner obtained community certificate from the respondent on 04.03.1996. The petitioner preferred an application to the respondent on 06.06.2015 requesting to issue community certificate to his children that they belong to Kurumans (ST) Community. The petitioner, along with the application, enclosed the following documents in support of his claim:-

- (i) Community certificate dated 04.03.1996.
- (ii) School Transfer certificate
- (iii) Community certificate of his brother Govindaraju issued by the RDO, Dharmapuri dated 04.03.1996.
- (iv) Sale deed dated 24.03.1988 executed in favour of his father Madhu in which his community is entered as Kurumans.

According to the petitioner, since no order has been passed by the respondent on the said application, he filed W.P.No.30733 of 2015, wherein, this court, by order dated 30.09.2015, directed the respondent to consider and pass orders on the petitioner's application dated 06 June 2015. Thereafter, the respondent passed an order on 03.03.2016 stating that the matter has been referred to the State Level Scrutiny Committee, against which, the Writ Petition No.29139 of 2016 is filed.

4. The learned counsel appearing for the petitioners submits that as per G.O.Ms.No.147 Revenue [RA-3(2)] Department dated 17.03.2016, the competent Appellate Authority to decide the correctness of the community certificate, is the District Collector, however, the respondent/Issuing Authority herein, viz., the Revenue Divisional Officer, ignoring the G.O., has referred the matter to the State Level Scrutiny Committee.

5. We have heard the submission of the learned counsel for the petitioners and perused the entire materials placed on record, particularly, G.O.Ms.No.147, Revenue Department dated 17.03.2016. We find some force in the contentions raised by the learned counsel for the petitioners. Accordingly, we set aside the order dated 03.03.2016 passed by the respondent. Consequently, the respondent is directed to refer the matter to the District Collector, the Appellate Authority in respect of issuance of Scheduled Tribe community certificate, within a period of 2 weeks from the date of receipt of a copy of this order and on receipt of the same, the District Collector, shall pass appropriate orders by conducting enquiry and also affording an opportunity of personal hearing to the petitioners within a period of 8 weeks thereafter.

6. The Writ Petitions are disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

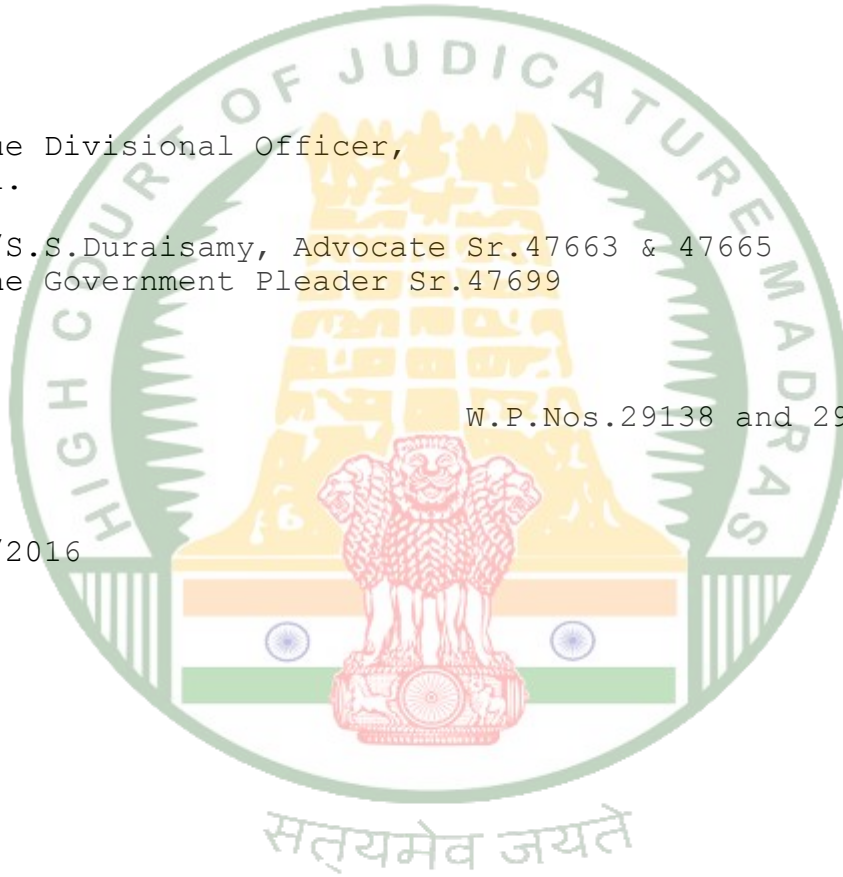
To

The Revenue Divisional Officer,
Dharmapuri.

+2cc to M/S.S.Duraisamy, Advocate Sr.47663 & 47665
+1cc to the Government Pleader Sr.47699

W.P.Nos.29138 and 29139 of 2016

rsi[co]
srg 31/08/2016



WEB COPY