

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 24.10.2016

CORAM

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P. NO. 33191 OF 2016

M.Narayana

.. Petitioner

- Vs -

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

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records relating to the rejection order passed in ROC No.3997/2011/A2 dated 29.7.2016 on the file of the respondent quash the same and direct the respondent to issue community certificate to the children of the petitioner, viz., N.Chaithra, 2. N.Swetha, N.Harchitha and N.Keerthan that they belong to "Kurichchan (ST) Community" based upon the proceedings of the State Level Scrutiny Committee passed in Proceedings No.4293/CVIII/2014 dated 6.3.2015 in respect of the brother of the petitioner M.Nagesh.

For Petitioner : Mr. S.Doraisamy

For Respondent : Mr.R.Prathapkumar, AGP

ORDER

(DELIVERED BY HULUVADI G.RAMESH, J.)

This writ petition has been filed by the petitioner for a direction on the respondent to issue "Kurichchan" ST community certificate to his four children based on the community certificate issued to him and his brother by the State Level Scrutiny Committee.

2. It is the case of the petitioner that he had filed an application with the respondent on 4.10.2010 for issuance of community certificate for his children and since no order was passed, he preferred a writ petition, wherein a direction was given to consider the said application and pass orders within a particular time frame.

3. Pursuant to the order passed by this Court, the respondent, after considering the case of the petitioner, by order dated 10.7.12, rejected the claim of the petitioner for

want of production of requisite documents. The said order was challenged before this Court by filing W.P. No.24124 of 2012 and this Court, while setting aside the order, remitted the matter back to the respondent for fresh consideration. Further to the order passed above, the respondent, after conducting discreet enquiry, passed the impugned order rejecting the claim of the petitioner for issuance of ST community certificate.

4. In the meanwhile, the petitioner and his brother, viz., Nagesh, filed W.P. Nos.10257 and 10258 of 2014 before this Court and this Court directed the State Level Scrutiny Community to conduct an enquiry and, thereafter, decide on the genuineness of the certificate issued to the petitioner and his brother. Pursuant to the said order, the State Level Scrutiny Committee after enquiry, gave its finding that the community certificate issued to the petitioner and his brother are genuine and that they belong to "Kurichchan" ST Community.

5. Based on the said finding of the State Level Scrutiny Committee, the petitioner preferred an application to the respondent on 4.5.2015 requesting for issuance of community certificate to his children. Since no order was passed, a writ petition was filed before this Court and this Court passed an order directing the respondent to pass orders on the petitioner's application within a specified time frame. In view of the said order, the respondent issued notice asking the petitioner to appear for enquiry and the petitioner appeared in person for the enquiry. Since no orders were passed even after the enquiry, the petitioner filed a contempt petition. However, pending the contempt petition, the respondent rejected the claim of the petitioner vide order dated 29.7.2016 against which the present writ petition has been filed.

6. Heard the learned counsel appearing for the petitioner and the learned Addl. Government Pleader appearing for the respondent and perused the materials available on record.

7. It is submitted by the learned counsel for the petitioner that the respondent has not taken into consideration the vigilance report and the enquiry report before passing the impugned order and this vitiates the impugned order and, therefore, the said order is liable to be set aside and the matter has to be remitted back to the respondent for fresh consideration based on the materials pointed out above.

8. Per contra, learned Addl. Government Pleader appearing for the respondent submits that as against the order of the Revenue Divisional Officer, an appeal lies before the District Collector. However, without exhausting the said remedy, the petitioner has approached this Court in haste and, therefore, the petitioner may be directed to approach the appellate authority, viz., the District Collector by submitting the requisite representation along with the documents relied on by

him and that the appellate authority may be directed to pass orders on the said representation within a particular time frame.

9. After having heard the learned counsel for the parties, it is evident that as against the order of the Revenue Divisional Officer, an appeal lies before the District Collector. In such view of the matter, this Court, without going into the merits of the rival claims, directs the petitioner to prefer an appeal before the District Collector along with the documents relied on by him within a period of four weeks from the date of receipt of a copy of this order and the District Collector, in turn, shall consider the said appeal along with the documents filed therewith and pass appropriate orders on the same in accordance with law within a period of eight weeks thereafter, after affording an opportunity of hearing to the petitioner.

10. Accordingly, this writ petition is disposed of with the aforesaid directions. However, there shall be no order as to costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

The Sub Collector
Hosur, Krishnagiri District.

+1 cc to Mr.S.Doraisamy, advocate,sr.60914

+1 cc to Government Pleader,sr.60780

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