

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.9826 of 2016

C. Yogarajan

Petitioner

Vs.

1 The Revenue Divisional Officer
Revenue Divisional Office
Thiruvallur
Thiruvallur District

2 The Tahsildar
Tahsildar Office
Thiruvallur
Thiruvallur District

Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondent to issue permanent community certificate to the petitioner and his daughter Y.Mohanapriya that they belong to Hindu Kattunayakan community, which is classified as Scheduled Tribe, based upon the community certificate already possessed by the petitioner's paternal uncle, i.e., father's own brother and mother's brother that they belong to Hindu Kattunayakan community.

For petitioner Mr. Sivalingam
for Mr. B. Balavijayan

For respondents Mrs. A. Srijayanthi
Special Government Pleader

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mrs. A. Srijayanthi, learned Special Government Pleader, accepts notice for the respondents. With consent, the writ petition is taken up for final disposal, at the admission stage itself.

2 This writ petition is filed seeking a writ of mandamus directing the respondents to issue permanent Hindu Kattunayakan (ST) community certificate to the petitioner and his daughter Y.Mohanapriya, based upon such community certificate already possessed by the petitioner's paternal uncle, i.e., father's own brother.

3 The petitioner, claiming to be belonging to Hindu Kattunayakan (ST) community, made an application to the first respondent way back on 8 January 2013, seeking issuance of such community certificate to himself and his daughter Y. Mohanapriya. Seemingly, the Sub-Collector, Thiruvallur, directed the Tahsildar, Thiruvallur, vide communication dated 24 January 2013 to conduct an enquiry qua social status of the petitioner and send a report. Accordingly, the Tahsildar, Thiruvallur, also has conducted enquiry and forwarded his report to the Revenue Divisional Officer, Thiruvallur, in October 2013, with a positive recommendation. However, since then, no orders have been passed on the petitioner's application. Hence, the instant writ petition, seeking the aforestated relief.

4 From a perusal of records, it is eloquent that in support of his claim that he belongs to Hindu Kattunayakan (ST) community, the petitioner has enclosed with his application, his paternal uncle's community certificate dated 14 June 1980 issued by the Tahsildar, Thiruvallur.

5 We have been repeatedly observing that a community comprises not only the members of the family, but, also the members of the same group or tribe. In the case on hand, when the petitioner's paternal uncle has been issued with Hindu Kattunayakan (ST) community certificate, such certificate does have a high probative value. However, it is well within the power of the competent officer concerned to examine the relationship of the said person with the applicant.

6 Needless to state that if any doubt crops up in the mind of the competent authority qua the genuineness of the community certificate relied on by the petitioner, while considering his application for grant of such certificate to himself and his daughter, the only course open to the competent authority is to refer the same to the State Level Scrutiny Committee, but, not to take a contrary stand by dis-crediting

the same. The said community certificate is subject to further verification by the State Level Scrutiny Committee. In other words, if the competent authority has any doubt qua the genuineness of the community certificate relied on by the petitioner, he has no competence to wish away the same, unless the same is set aside or modified by the higher authority, i.e., the State Level Scrutiny Committee and he can only refer the matter to the State Level Scrutiny Committee.

7 In view of the foregoing, we direct the petitioner to submit all the relevant documents to the authorities concerned within a period of two weeks and thereafter, the authorities concerned are directed to consider and pass appropriate orders on the petitioner's application dated 08 January 2013 on its own merits and in accordance with law, within a period of six weeks in the light of the order dated 21 December 2015 passed by a Division Bench of this Court in G.Venkitasamy and V. Balasubramaniam vs. The Chairman, State Level Scrutiny Committee and Secretary to Government, Adi Dravidar and Tribal Welfare Department, Namakkal Kavingar Maaligai, Fort St. George, Chennai - 9¹.

8 The writ petition stands disposed of with the above direction. Costs made easy.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

cad
To

1 The Revenue Divisional Officer
Revenue Divisional Office
Thiruvallur, Thiruvallur District

2 The Tahsildar
Tahsildar Office
Thiruvallur, Thiruvallur District

+ 1 cc to Mr.B.Balavijayan, Advocate Sr 17330 (5/4/16)

W.P. No.9826 of 2016

vsn co
kra 28.03.2016