



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) .No.3491 of 2015

M.Shanthi

.. Petitioner

versus

- 1.The State of Tamil Nadu,
Represented by its Secretary,
School Education Department,
Fort St. George,
Chennai-600 009.
 - 2.The Commissioner,
Backward Class and Most Backward Class Department,
Chennai 600 005.
 - 3.The Joint Director,
Kallar Reclamation,
Madurai -20.
Madurai District.
 - 4.The Educational Officer,
Officer of the Joint Director,
For Kallar Reclamation,
Madurai 20.
Madurai District.
 - 5.The Revenue Divisional Officer,
Periyakulam,
Theni District.
- .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India forbearing the respondents 2 to 5 from holding any enquiry over the community status of the petitioner and cancelling the community certificate of the petitioner belonging to the MBC Hindu Piramalai Kallar as certified by the Special Deputy Tahsildar, Periyakulam.

For Petitioner	:	Mr.T.Lajapathi Roy
For respondents	:	Mr.A.K.Baskarapandian Special Government Pleader

**JUDGMENT**

(Judgment of the Court was made by M.SATHYANARAYANAN ,J.)

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By consent, the writ petition is taken up for final disposal.

2. Mr.A.K.Baskarapandian, learned Special Government Pleader, accepts notice on behalf of the respondents 1 to 5.

3. The petitioner in the affidavit filed in support of the petition, averred among other things that she belongs to Hindu Piramalai Kallar Community and she completed Secondary Grade Teacher in the year 1992 and got posting at Kallar Reclamation School at Pillakapatti, Theni District, in the year 1992 and she got promotion as B.T.Assistant in the year 2012 and posted at Kallar Reclamation Higher Secondary School at Muthanampatti, Theni District and from 01.12.2014 onwards, she is working as B.T. Assistant in Tamil at the Kallar Reclamation High School, Annanji, Theni District. The petitioner would further state that due to wishes of elders, she got married to one V.P.Murugan on 06.06.1993 and out of wedlock, she was blessed with 2 children, namely Janani, aged 18 years studying B.E. 2nd year Course and one son aged about 16 years studying Higher Secondary 1st year. The petitioner would further state that after some time, her husband started to ill-treat her both physically and mentally and under the influence of alcohol, he used to beat her regularly and she was also driven out of her matrimonial home. That apart, he developed illicit intimacy with another woman. Adding salt to the wound, the petitioner's husband filed HMOP No.213 of 2012 for divorce and the same is pending before the jurisdictional Court.

4. It is the specific case of the petitioner, that in order to give torture and mental agony, her husband V.P.Murugan lodged a false case against her on the ground that the Community Certificate issued to her is a bogus and fabricated one and based on the complaint, the third respondent has issued notice, dated 20.03.2009, stating that upon the complaint given by her husband, the Commissioner, Backward Class and Most Backward Class Department, Chennai has directed them to conduct enquiry and therefore, called upon the petitioner to appear before them on 27.03.2013 at 3 p.m. along with necessary documents. Challenging the legality of the issuance of the said notice, the petitioner has come forward with this Writ Petition.

5. Mr.T.Lajapathi Roy, the learned counsel appearing for the petitioner vehemently contended that admittedly, the petitioner was born as a Hindu and she was issued with the Community Certificate by Special Deputy Tahsildar, Periyakulam, bearing No. 1843995 and it is yet to be cancelled and her husband is also



Hindu and marriage was solemnized between them as per the Hindu Rites and Customs and as such, there cannot be any doubt on the part of the respondents as to the Community status of the petitioner and further contended that the respondents also not taken note of the fact that she is living away from her residence and she is also facing a proceedings for divorce and therefore, every aspects ought to have been taken into consideration before issuing the impugned notice. It is contended by the learned counsel appearing for the petitioner that the enquiry in pursuant to the impugned notice is nothing but harassment and he also drawn the attention of this Court to the sincere and unblemished service put forth by the petitioner so far. The learned counsel for the petitioner also drawn the attention of this Court to the order, dated 06.03.2015, in W.P.(MD).No.3084 of 2015 filed by her brother, M.Saravana Kumar, who has also faced a similar problem and the impugned order thereof was quashed recognizing her brother M.Saravana Kumar as Hindu Piramalai Kallar Denotified Most Backward Class and in the light of the said order also, the learned counsel prays that the impugned notice warrants interference.

6. Per contra, the learned Special Government Pleader, would contend that neither the second respondent nor the third respondent did not reach any conclusion as to the Community Status of the petitioner. Since complaint has been received from her husband, the respondents have to conduct enquiry to appreciate the true facts and only for that purpose, the petitioner was issued with impugned notice and further contended, it is always open to the petitioner to participate in the enquiry and submit all the relevant documents and the said documents would be considered on merits and in accordance with law. Therefore the learned Special Government Pleader prays for dismissal of this writ petition.

7. This Court has carefully considered the rival submissions and also perused the typed set of documents.

8. It is a categorical stand of the petitioner that right from the birth, she is a Hindu and she was also issued with the above said community certificate by the Special Deputy Tahsildar Periyakulam, which is yet to be cancelled and her marriage with her husband, V.P.Murugan, is also as per Hindu Rites and Customs and two children born out of wedlock are being brought as Hindus only and there cannot be any doubt on the part of the third respondent as to the community status of the petitioner and the enquiry in pursuance of the impugned notice is nothing but an harassment.

9. In the considered opinion of this Court, the point urged by the learned counsel for the petitioner cannot be gone into at this stage in this writ petition. The remedy open to the petitioner is to participate in the enquiry being conducted by the third



respondent and produce all documents, which shall be taken into consideration by the third respondent on merits and in accordance with law, before forwarding the report to the second respondent.

10. In the result, the writ petition is disposed of and the petitioner is at liberty to participate in the enquiry being conducted by the third respondent and produce all the relevant documents including the above-said order in W.P.(MD).No.3084 of 2015 and the third respondent on receipt of all the documents, is directed to consider the same on merits and in accordance with law after affording reasonable opportunity to the complainant as well as to the petitioner herein forward his report to the second respondent within a period of 8 weeks from the date of receipt of a copy of this order. The second respondent on receipt of the same, is directed to pass orders, on merits and in accordance with law, within a period of six weeks thereafter. No costs.

Sd/-

Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To

1.The Secretary to Government,
School Education Department,
Fort St. George, Chennai-600 009.

2.The Commissioner,
Backward Class and Most Backward Class Department,
Chennai 600 005.

3.The Joint Director,
Kallar Reclamation, Madurai -20, Madurai District.

4.The Educational Officer,
Officer of the Joint Director,
For Kallar Reclamation, Madurai 20. Madurai District.

5.The Revenue Divisional Officer, Periyakulam, Theni District.

+1 CC to M/s.T.LAJAPTHI ROY, Advocate, SR No.71054

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No.71134

W.P.(MD).No.3491 of 2015

21.11.2016

jikr

SH/KP/SAR-1:29.11.2016:4P/8C