

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 01.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN**AND****THE HONOURABLE MS.JUSTICE V.M.VELUMANI****Review Application (MD)No.42 of 2016**

A.Mutharasan

... Review Applicant/
Petitioner

Vs.

1.The State of Tamil Nadu,
represented by
The Secretary to Government,
Adi-Dravidar and Tribal Welfare Department,
Fort St. George,
Chennai.

2.The District Vigilance Committee,
represented by its
President/District Collector,
Tirunelveli District.

3.The Revenue Divisional Officer,
Tirunelveli.

4.The Tahsildar,
Nanguneri Taluk,
Tirunelveli District.

... Respondents/
Respondents

PRAYER: Petition filed under Order 47 Rules 1 and 2 read with Section 114 of the Code of Civil Procedure, to review the order passed by this Court in W.P(MD)No.4641 of 2008, dated 06.10.2016.

Prayer in WP(MD). 4641/ 2008 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ in the nature of a writ of certiorari calling for the records relating to the impugned order of the 2nd respondent in Ref.Ni.Mu.(b.4) 51645/2004 dated 31.3.2008 and quash the same.

For Petitioner

: Mr.D.Selvanayagam

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondents

: Mr.R.Velmurugan

Government Advocate

**ORDER**

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

The present Review Application is filed by the writ petitioner to review the order dated 06.10.2016.

2. The facts leading to this case have been narrated in detail and in extenso in the above said impugned order and therefore, it is not necessary to restate the same.

3. The learned Counsel for the petitioner has drawn the attention of this Court to the order of this Court in **A. Jothimani v. The Secretary, Adi Dravidar and Tribal Welfare Department, Fort St. George, Secretariat, Chennai - 9 and others** [W.P.No.3429 of 2012, decided on 19.12.2012] and would submit that in similar facts and circumstances, a Division Bench of this Court has held that '*on the score of the marriage of a person belonging to the Christian religion and in the absence of any evidence that the petitioner had in fact converted to Christianity, the mere fact of marriage to a Christian by itself would not be a ground to hold that the person loses her status as Hindu Adi Dravidar, which the person original belongs to*'. ... '*Visiting places of prayer or worship is a matter of individual choice or preference. Such mobility is available to a person without even changing to any religion from the one in which one is born. We do not understand how visiting Church, per se would result in the conversion from one religion to another. ...*' and would submit that the petitioner herein is also similarly placed and therefore, the matter is to be reviewed.

4. Per contra, Mr.R.Velmurugan, learned Government Advocate who accepts notice on behalf of the respondents, would submit that the scope of review jurisdiction is very limited and the petitioner under the guise of arguing the review, cannot argue this matter like an appeal and this Court in the impugned order has taken into consideration all the relevant facts and circumstances of the case and rightly reached the conclusion to dismiss the writ petition and as such, it cannot be reviewed and therefore, prays for the dismissal of this review application.

5. This Court has considered the rival submissions and perused the materials available on record.

6. This Court, in paragraph 8 of the impugned order passed in the writ petition has dealt with the facts and found that the documents available on the file would exhibit that the parents of the petitioner, sister and wife belong to Christianity and Bible and Bible versions were found in the house and he has also



actively involved in all the activities and functions of the Church and also signed as a witness in a marriage celebrated in the Church and was also in the Welcome Committee during the Anniversary Celebration of St. Paul Lutheran Church.

7. Some of the events pointed out cannot be done by a Non-Christian and as such, the authority below has reached the conclusion that the petitioner does not belong to Hindu - Adi Dravidar (Parayar) Community. This Court has also dealt with the factual aspects and applied it's mind independently and came to a conclusion that the impugned order which was the subject matter of challenge in the writ petition, does not warrant interference.

8. It is also a well settled position of law that review cannot be an appeal in disguise and unless there is an error or infirmity on the face of the record, this Court will not exercise it's review jurisdiction. In the considered opinion of this Court, the points urged in this review application were already considered by this Court while dismissing the writ petition and as such, there is no merit in this review application.

9. Therefore, this Review Application is dismissed at the admission stage itself. No costs.

Sd/-

Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To

1.The Secretary to Government,
State of Tamil Nadu,
Adi-Dravidar and Tribal Welfare Department,
Fort St. George, Chennai.

2.The President/District Collector, District Vigilance Committee,
Tirunelveli District.

3.The Revenue Divisional Officer, Tirunelveli.

4.The Tahsildar, Nanguneri Taluk, Tirunelveli District.

Rsb

CSL/PV/23.12.2016: 3P/5C

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