



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.11.2016

CORAM:

WEB COPY

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

W.P (MD) .No.4982 of 2011
and
M.P. (MD) .No.1 of 2011

K.Arumugam

... Petitioner

Vs

1.The Chairman,
District Vigilance Committee,
Tirunelveli District,
Collectorate, Tirunelveli-627 002.

2.The Revenue Divisional Officer,
Cheranmahadevi-627 414
Tirunelveli District.

3.The Headquarters Deputy Tahsildar,
Ambasamudram-627 401,
Tirunelveli District.

... Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying for a writ of certiorafified mandamus to calling for the records relating to the proceedings in NM(Aa.4) 39701/2009 dated 11/3/2011 on the file of the first respondent herein and to quash the same and direct the second respondent to issue certificates to the petitioner for his children esakiammal and vijayalakshmi as belonging to hindu sholaga community.

For Petitioner	:Mrs.Jessi Jeeva Priya for Mr.R.Subbiah
For R.1&2	:Mr.R.Velmurugan Govt.Advocate
For R.3	:Mr.Arivuchandran

ORDER[Order of the Court was made by **M.SATHYANARAYANAN, J.**]

<https://hcservices.ecourts.gov.in/hcservices/>
By consent, this Writ Petition is taken up for final disposal. Mr.R.Velmurugan, learned Government Advocate accepts



notice for the respondents 1 to 3.

2. A perusal of the affidavit filed in support of the Writ Petition would disclose among other things that the petitioner claims that he belongs to 'Hindu Sholaga Community', which is a Scheduled Tribe Community and a certification to that effect by the competent authority-second respondent was issued vide proceedings dated 29.04.1982. When the petitioner sought Community Certificate to his daughters, the second respondent vide his proceedings dated 29.04.1999 had rejected the said request and challenging the same, he filed an appeal before the first respondent which was consisting of two members had dismissed the appeal vide order dated 19.09.2002. Challenging the same, he filed an appeal before the State Level Vigilance and Scrutiny Committee and it was once again remanded the matter back to the first respondent consisting of three members and upon hearing, it was once again rejected by passing the present impugned order dated 11.03.2011 and challenging the legality of the same, the petitioner before this Court.

3. Learned Counsel for the petitioner would submit that the first respondent assumed that there is no 'Hindu Sholaga Community' prevailing or residing in Tirunelveli District and also accepting the Report of the Anthropologist's Report had dismissed the case of the petitioner, despite availability of overwhelming documents evidencing the fact that the petitioner belongs to 'Hindu Sholaga Community'. In this regard, the petitioner has also placed reliance upon the judgment of this Court reported in **2000 (1) MLJ 267, Rejeswari Vs. The District Collector, Nellai Kattabomman District, Tirunelveli** and therefore, prays for interference of this Court.

4. *Per contra*, Mr.R.Velmurgan, learned Government Advocate, on thorough scrutiny of materials found that the petitioner does not belong to 'Hindu Sholaga Community' and therefore, prays for the dismissal of the Writ Petition. He would further contend that in the light of the subsequent G.O.Ms.No.147, dated 17.03.2016, the petitioner has to work out his remedy by filing an appeal before the State Level Scrutiny Committee.

5. This Court has paid its best attention and perused the materials placed before it.

6. A perusal of the judgment relied upon by the petitioner in **2000 (1) MLJ 267, Rejeswari Vs. The District Collector, Nellai Kattabomman District, Tirunelveli**, clearly indicates that, the Order of Collector, Nellai Kattabomman District, Tirunelveli cancelling the Community Certificate of the petitioner therein was put to challenge. In the said decision, the sub-collector had collected the materials behind the back of the petitioner therein and accordingly, findings came to be



rendered and therefore, the order of the respondents therein held to be bad in law and it was further found that the father of the petitioner was having a valid certificate and as such, the Community Certificate granted in favour of the petitioner therein cannot be faulted with and therefore, it has been held that the petitioner therein belongs to 'Hindu Sholaga Community' and the Community Certificate was also found to be genuine and citing the said reason, the Writ Petition came to be allowed.

7. In the considered opinion of this Court, the findings primordially came to be rendered for the reason that 'Hindu Sholaga Community' does not exist in Tirunelveli District. However, the judgment relied on by the learned Counsel for the petitioner shows that there is 'Hindu Sholaga Community' and such Community Certificates were issued in favour of the persons settled in Tirunelveli District. It was a positive order quashing the order impugned therein and it was held that the petitioner therein belongs to 'Hindu Sholaga Community'. Since the impugned order primordially based on the findings of the Anthropologist Report, this Court lacks expertise to analyse the said report and is of the considered view that in the light of G.O.Ms.No.147, dated 17.03.2016, the petitioner has to approach the State Level Scrutiny Committee to assail the legality of the order, which is the subject matter of challenge in the Writ Petition.

8. In the result, this Writ Petition is partly allowed and the impugned order under challenge is set aside and the matter is remanded to the first respondent and the petitioner is at liberty to challenge the legality of the impugned order dated 11.03.2011 passed by the first respondent in the form of an appeal, within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, the State Level Scrutiny Committee shall consider the same and after giving an opportunity of personal hearing to the petitioner, pass orders on merits and in accordance with law, within a further period of ten weeks thereafter and communicate the decision taken to the petitioner, forthwith to work out his further remedy. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

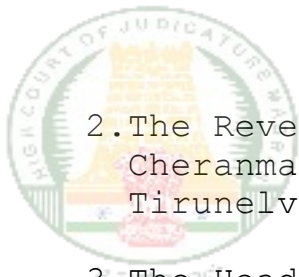
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1.The Chairman,
District Vigilance Committee,
Tirunelveli District,
Collectorate, Tirunelveli-627 002.



2.The Revenue Divisional Officer,
Cheranmahadevi-627 414
Tirunelveli District.

3.The Headquarters Deputy Tahsildar,
Ambasamudram-627 401,
Tirunelveli District.

4.The President and Secretary to Government,
The State Level Vigilance Committee for
Verification of Community Certificate,
Adi-Dravidar and Tribal Welfare Department,
Fort.St.George, Chennai-9.

+1 cc to M/s.S.Suresh, Advocate in SR.No. 71596

ssm

CSL/PV/23.12.2016: 4P/6C

W.P (MD) .No.4982 of 2011
21.11.2016
(3/3)