

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2017

CORAM :

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.6603 of 2017
and W.M.P.No.7086 of 2017

V.Sankaran

.. Petitioner

vs.

The Sub Collector
Tirupattur
Vellore District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus, calling for the records relating to the proceedings in Rc.A1/3660/2015 dated 27.02.2017 on the file of the respondent quash the same and direct the respondent to issue community certificate to the children of the petitioner viz., 1. S.Ruthranayagi and 2. S.Preethi that they belong to Kurumans (ST) Community based upon the proceedings of the District Level Vigilance Committee passed in favour of the petitioner in proceedings No.Na.Ka.Ke5/28997/2001 dated 02.05.2007.

For Petitioner : Mr.S.Doraisamy

For Respondent : Mr.K.Venkatramani, AAG
Asst.by Mr.K.Dhananjayan, Spl.G.P.

O R D E R

K.K. SASIDHARAN, J.

This writ petition is directed against the order dated 27 February 2017, whereby and whereunder, the Sub Collector, Tirupattur declined to issue Community Certificates to the children of the petitioner on the ground that the matter requires scrutiny by the State Level Scrutiny Committee. The order is under challenge, primarily on the ground that on account of the process of verification undertaken by the District Level Vigilance Committee earlier, as evidenced by the proceedings dated 02 May 2007 and the Certificate issued to the petitioner on 30 June 1977, it is not open to the Revenue Divisional Officer to send the matter once again to the State Level Scrutiny Committee.

2. We have heard the learned counsel for the petitioner. We have also heard the learned Additional Advocate General on behalf of the State.

3. The documents available on record indicate that the petitioner obtained a Community Certificate way back on 30 June 1977 indicating that he belongs to Kuruman community, which is notified as a Scheduled Tribe. The Certificate was subjected to verification by the District Level Vigilance Committee. The proceedings of the District Level Vigilance Committee dated 02 May 2007 indicates that the Committee examined the case of the petitioner and his Certificate was found to be genuine.

4. The petitioner armed with the proceedings of the District Level Vigilance Committee dated 02 May 2007, submitted an application before the Sub Collector, Tirupattur, to issue Community Certificates to his children by name, S.Ruthranayagi and S.Preethi indicating their community status.

5. The Sub Collector, Tirupattur, considered the matter afresh and opined that it would not be possible to place reliance on the report submitted by the District Level Vigilance Committee and that the matter requires fresh consideration. The Sub Collector indicated in his order dated 27 February 2017 that the Community Certificate of the petitioner has already been referred to the State Level Scrutiny Committee for scrutiny by the then Sub Collector, vide proceedings dated 04 July 2012 and as such, the petitioner has to await the outcome of the scrutiny proceedings, for consideration of the case of his two children for Community Certificates.

6. The scrutiny with regard to the community status produced by a person has to be conducted in accordance with the law laid down by the Supreme Court in Kumari Madhuri Patil v. Additional Commissioner, Tribal Development and others [(1994) 6 SCC 241] and subsequently in Dayaram v. Sudhir Batham [(2012) 1 SCC 333].

7. The Hon'ble Supreme Court, in sub para (7) of para 13 of Kumari Madhuri Patil's case, very clearly stated that the report submitted by the Vigilance Committee should be accepted by the State Level Scrutiny Committee. In case, the Committee arrives at a tentative decision that the particulars were false or it was obtained fraudulently, the Scrutiny Committee is at liberty to initiate further verification directing the District Vigilance Cell once again to conduct investigation. This is the sum and substance of the direction given by the Hon'ble Supreme Court in Kumari Madhuri Patil's case.

8. Before us, there are no materials produced by the Sub Collector, Tirupattur, to indicate that on the basis of the prima facie materials, he has arrived at a finding that the District Vigilance Committee was not correct in deciding the community status of the petitioner, by proceedings dated 02 May 2007. The fact that the Community Certificate of the petitioner was referred to the State Level Scrutiny Committee also cannot be a reason to keep the application submitted by the children of the petitioner pending. There is nothing on record to show that the Sub Collector took up the matter with the State Level Scrutiny Committee for the purpose of giving a quietus to the entire issue.

9. Since the respondent has not produced any material before us to take a contrary view in the matter and the application was kept pending only on account of the pendency of the scrutiny proceedings before the State Level Scrutiny committee, we are inclined to set aside the order impugned in this writ petition.

10. In the result, the order dated 27 February 2017 on the file of the Sub Collector, Tirupattur is set aside. The matter is remanded to the Sub Collector, Tirupattur for fresh consideration.

11. We make it clear that in case, the Sub Collector is of the view that the available materials would suggest that the report of the earlier vigilance Committee was procured or it was false or fraudulent, it is open to him to refer the matter to the Scrutiny Committee. In any case, the issue requires to be considered by the Sub Collector, in accordance with the law laid down by the Supreme Court in Kumari Madhuri Patil v. Additional Commissioner, Tribal Development and others [(1994) 6 SCC 241] and subsequently in Dayaram v. Sudhir Batham [(2012) 1 SCC 333]. In short, his order must contain materials to direct further enquiry by the Scrutiny Committee. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

The writ petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

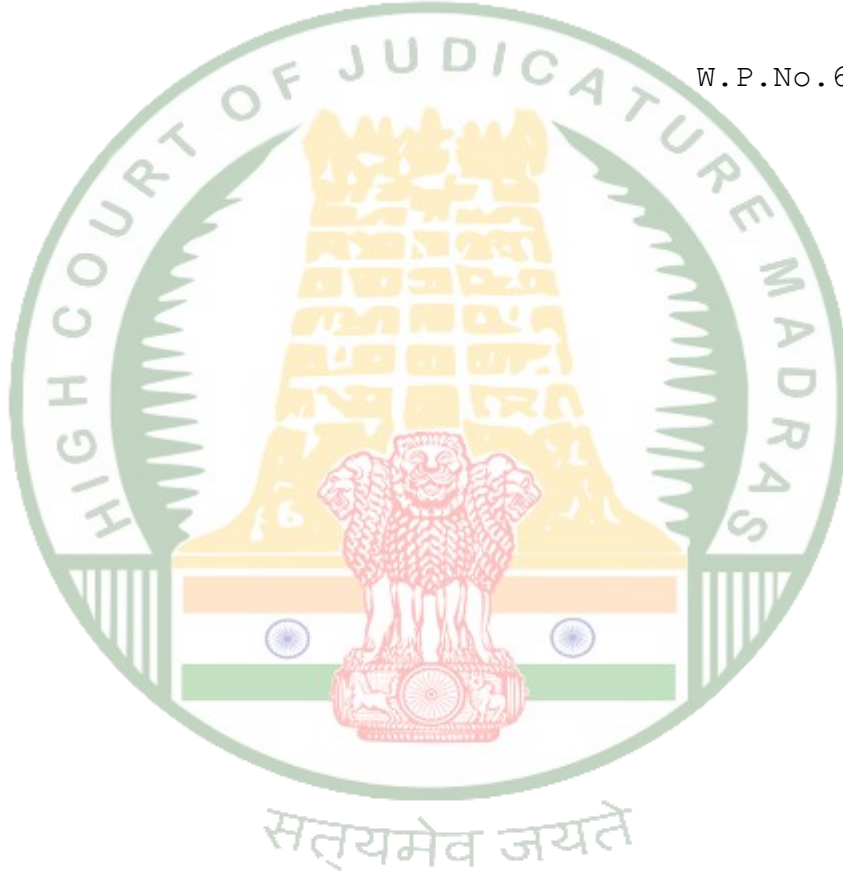
The Sub Collector
Tirupattur
Vellore District.

+1 cc to Mr.S.Doraisamy,advocate,sr.22011

+1 cc to Govt.Pleader,sr.22095.

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