

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2017

CORAM :

THE HON'BLE MR. JUSTICE C.T.SELVAM
AND
THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

Writ Petition Nos.32246 and 32247 of 2017

G.Kandasamy ... Petitioner
in WP.32246/2017

G.Natesan ... Petitioner
in WP.32247/2017

Vs

1.The District Collector,
Dharmapuri District,
Dharmapuri.

2.The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District. ... Respondents 1 & 2
in both writ petitions

3.The Tahsildhar,
Dharmapuri Taluk,
Dharmapuri. ... 3rd respondent
in WP.32246/2017

PRAYER in W.P.No.32246 of 2017: Petition under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the first respondent in Na.Ka.15637/2016 (K3), dated 1.6.2017, confirming the impugned proceedings issued by the second respondent in Na.Ka.8484/2015/A4, dated 4.12.2015, to quash the same and to direct the respondents to issue S.T. Kurumans Community Certificate in favour of the petitioner and children of petitioner, namely Damodaran and Dharani, within a stipulated time.

PRAYER in W.P.No.32247 of 2017: Petition under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the first respondent in Na.Ka.14257/2016

(K3), dated 1.6.2017, confirming the impugned proceedings issued by the second respondent in Na.Ka.8482/2015/A4, dated 28.11.2015, to quash the same and to direct the respondents to issue S.T. Kurumans Community Certificate in favour of the petitioner and children of petitioner, namely, N.Yuvaraj, N.Gokila and N.Dinakaran, within a stipulated time.

(In both the WPs)

For Petitioners : Mr.G.Sankaran

For Respondents : Mr.S.N.Parthasarathi
Government Advocate

COMMON ORDER

(Order of this Court was made by M.V.MURALIDARAN,J.)

Calling into question the proceedings of the first respondent dated 01.06.2017, confirming the orders passed by the second respondent dated 04.12.2015 and 28.11.2015 respectively, the present writ petitions are filed seeking to quash the same and to direct the respondent authorities to issue community certificates to the petitioners and their children.

2. The facts in a nutshell anent the writ petition, being W.P.No.32246 of 2017, are as under: The petitioner claims to be belonging to Hindu "Kurumans" Community, which is recognized as a Scheduled Tribe Community. He has two children - Damodaran and Dharani. On 13.08.2014, it is stated that the petitioner applied to the second respondent for issuance of community certificates to him and his children, duly enclosing all relevant documents, including the community certificates issued to his relatives. Thereafter, the petitioner also forwarded the community certificate of one P.Kumar (who is the son of petitioner's maternal uncle) and the order dated 04.02.2015 of the State Level Scrutiny Committee, which had granted seal of approval to the said community certificate.

3. It is averred that the application of the petitioner was forwarded by the second respondent to the third respondent seeking a report after due enquiry. It is alleged that the third respondent after conducting enquiry submitted a report to the first respondent, whereas the second respondent has not passed any order on the application of the petitioner, which led to the filing of W.P.No.24726 of 2015, wherein this Court, by order 11.08.2015, referring to the community certificates issued to the relatives of the petitioner, directed the authorities to consider the application of the petitioner on merits and in accordance with law.

4. It is alleged that thereafter the second respondent, by proceedings dated 04.12.2015, rejected the claim of the petitioner without assigning reasons. The petitioner is stated to have appealed to the first respondent, who, by proceedings dated 01.06.2017, rejected the claim of the petitioner and upheld the order passed by the second respondent and it is alleged that such order has been passed without considering relevant documents in respect of his own family members and by considering irrelevant documents.

5. As the facts in respect of W.P.No.32247 are also along the same lines, we do not propose to reproduce the factual aspects pertaining to the said writ petition.

6. The main plank of the argument advanced by the learned counsel for the petitioners is that when their blood relative - P.Kumar had been issued a community certificate to the effect that he belongs to "Kurumans" Community, which is a notified Scheduled Tribe Community, and the validity of the same has been upheld by the State Level Scrutiny Committee, the petitioners and their children are also entitled to such community certificates and denial of the same is arbitrary and illegal.

7. It is his plea that the entire family branches out from one Erukkan and many of his family members had been issued community certificates to the effect that they belong to "Kurumans" Community and non issuance of such community certificate to the petitioner and their children reeks of arbitrariness.

8. Placing reliance on a series of decisions of this Court, he contended that a community comprises the members of the family and also members of the same group or tribe or caste and inasmuch as their blood relative had been issued with a community certificate to the effect that he belongs to "Kurumans" Community, the petitioners are entitled to such benefit.

9. He further contended that the respondents without conducting thorough enquiry and without referring to the documents produced by the petitioners had mechanically rejected the plea of the petitioners.

10. On the other hand, the learned Government Advocate appearing on behalf of the respondents reiterated the reasons that weighed with the authorities in passing the impugned proceedings and prayed for dismissal of the writ petitions.

11. We heard Mr.G.Sankaran, learned counsel for the petitioners and Mr.S.N.Parthasarathy, learned Government

Advocate for the respondents in both the writ petitions and perused the documents available on record.

12. A bare perusal of the documents shows that the petitioners' blood relative - one P.Kumar, had been issued with a community certificate by the Revenue Divisional Officer, Dharmapuri, on 09.07.1996, to the effect that he belongs to "Kurumans" Community. The genuineness of the said community certificate was verified by the State Level Scrutiny Committee and same was upheld by proceedings dated 04.02.2015. The said proceedings shows that the State Level Scrutiny Committee had considered the views of the Anthropologist, the original records, oral statements and, thereafter, rendered a finding that the said P.Kumar belongs to Hindu "Kurumans" Scheduled Tribe Community.

13. The pedigree charts produced by the petitioners show that the said P.Kumar is the son of one Perumal and their family branches out from Erukkan, as in the case of the petitioners herein. That apart, another brother of P.Kumar, by name P.Sakthivel, was also issued community certificate pursuant to the orders passed by this Court in W.P.No.13723 of 2015 on 15.7.2015. It is not the case of the respondents that the community certificates issued to the blood relatives of the petitioners have been cancelled.

14. In State of Bihar v. Sumit Anand, (2005) 12 SCC 248, the Supreme Court upheld the order of the High Court directing the revenue authorities to issue community certificate to the children based on the certificates already issued to their father, grandfather, mother, and maternal uncle. The Supreme Court observed as under:

"6. We have perused the findings recorded by the Division Bench as well as the Single Judge of the High Court. In view of the fact that the respondent's father, grandfather, mother and maternal uncle had all been granted the certificate certifying that they belong to the "Gond" community, we see no reason to come to a conclusion other than the one arrived at by the High Court to the effect that the respondent was entitled to issuance of the caste certificate."

15. This Court has time and again held that a community comprises not only of the members of the family, but also the members of the same group or tribe. In the case on hand, when the petitioners' blood relatives have been issued with community certificates to the effect that they belong to "Kurumans" community and the said orders are still valid and subsisting, we find no justification in denying the same benefit to the

petitioners and their children.

16. For the foregoing reasons, these writ petitions are allowed as prayed for and the orders impugned are set aside with a direction to the respondents to issue community certificates as prayed for within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS IV)

//True copy//

Sub Assistant Registrar

vs

To

1. The District Collector,
Dharmapuri District,
Dharmapuri.
- 2.The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District.
- 3.The Tahsildhar,
Dharmapuri Taluk,
Dharmapuri.

+lcc to Government Pleader SR.No.92126

Writ Petition Nos.32246 and 32247 of 2017

GN(10/01/2018)

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