

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.06.2017

CORAM:

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

W.P.No.1426 of 2015

D.Uma

...Petitioner

vs.

The Sub Collector
Mettur.

..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying a writ of Certiorarified Mandamus, calling for the records of the proceedings of the respondent in its Roc.427/2013(D) dated 13.12.2013 and quash the same and consequently direct the respondent to issue community certificates to the petitioner's sons S.Mukesh Kannan and S.Surya Prakash to the effect that they belong to Mannan Community (Scheduled Tribe).

For Petitioner : Mr.V.Vijay Shankar

For Respondent : Mr.K.Dhananjayan
Special Government Pleader

O R D E R

K.K. SASIDHARAN, J.

The petitioner, on the strength of the Community Certificate issued to her indicating the community status as "Mannan Community", submitted application for issuance of Community Certificates to her children. The application was rejected by the Sub Collector, Mettur, on the ground that 'Mannan Community' hails from Idikki in the State of Kerala and the petitioner originally belongs to Andhra Pradesh. The order is under challenge in this writ petition.

2. The learned counsel for the petitioner contended that the documents produced by the petitioner to prove her community

status were arbitrarily rejected by the Sub Collector. According to the learned counsel, the fact that the petitioner migrated from Andhra Pradesh was taken as a substantial ground to reject the community claimed by her on the ground that Mannan Community is found only in Kerala and not in Andhra Pradesh. The learned counsel contented that even the Certificate verified by the District Vigilance Committee was also ignored by the Sub Collector, notwithstanding the fact that the petitioner proved the relationship. The learned counsel by placing reliance on the Community Certificates issued to the sisters and near relatives of the petitioner contended that those Certificates were rejected on flimsy grounds. The learned counsel therefore, seeks a positive direction to issue Community Certificates to the children of the petitioner.

3. We have also heard the learned Special Government Pleader for the respondent.

4. The petitioner obtained a Community Certificate way back on 03 March, 1997. The petitioner appears to have secured employment in the State Government service on the strength of the Community Certificate issued to her.

5. The petitioner submitted an application to the Sub Collector, Mettur, for issuance of Community Certificates to her two children. According to the petitioner, the application was accompanied by series of certificates issued to her near relatives. The petitioner also produced the proceedings dated 23 September 2011 issued by the District Level Vigilance Committee, Salem to prove that her near relative was given a Community Certificate and the same was verified by the State Level Scrutiny Committee.

6. The Sub Collector Mettur, appears to have conducted a roving enquiry in and around Mettur, and more particularly in the Omalur Taluk, to decide as to whether the petitioner actually belongs to Mannan Community.

7. The documents available on the record, including the impugned order indicate that the petitioner produced as many as 14 documents before the Sub Collector to prove that she belongs to Mannan Community. The Sub Collector was expected to consider each and every document before arriving at a decision one way or the other. In the subject case, the Sub Collector, rejected those certificates stating that Mannan Community members speak Malayalam as language, while the petitioner and her relatives speak Telugu.

8. When the certificates issued by the competent authority indicating the community status of near relatives and the relationship of the petitioner with the holders of those

certificates were proved, the Sub Collector was expected to consider them, with all seriousness. The impugned order proceeds as if none of those certificates are valid. In view of the string of evidence produced by the petitioner to prove her community status, we are of the view that the Sub Collector was not correct in passing the impugned order.

9. In the result, the impugned order dated 13 December 2013 is set aside and the matter is remitted to the Sub Collector, Mettur for fresh consideration. The Sub Collector is directed to consider the entire documents submitted by the petitioner and conduct necessary enquiry with notice to the petitioner and decide the matter on merits and as per law. While considering the matter afresh, the Sub Collector shall not be bound by the observation made in the order impugned in this writ petition. In short, a decision shall be taken by the Sub Collector uninfluenced by any of the observations contained in the order. It is open to the petitioner to produce relevant materials in addition to the materials already on record to prove her Community status. The enquiry shall be conducted in the manner indicated in the judgement of 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]. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

In the upshot, we allow the writ petition. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

dna/gms

To
The Sub Collector
Mettur.

+lcc to Mr.V.VijayaKumar, Advocate SR.No.41943
+lcc to Government Pleader, Advocate SR.No.42196

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GN(04/07/2017)