

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.1506 of 2015

C.Karthikeyan

.. Petitioner

vs.

The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the rejection order of the respondent in Na.Ka.3104/2014/A4 dated 26.09.2014 quash the same and direct the respondent to issue community certificate to the petitioner's children viz. 1.K.Jeevan, 2.K.Parthiban and 3.K.Hemalatha that they belong to Kurichchan (ST) Community based upon the Community Certificate already issued to the petitioner's close relative A.Madhusamy and his children.

For Petitioner : Mr.S.Doraisamy

For Respondent : Mr.K.Dhananjeyan
Special Government Pleader

ORDER

(Order of the Court was delivered by M.V.MURALIDARAN,J.)

The prayer in the writ petition is for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the rejection order of the respondent in Na.Ka.3104/2014/A4 dated 26.09.2014 quash the same and direct the respondent to issue community certificate to the petitioner's children viz. 1.K.Jeevan, 2.K.Parthiban and 3.K.Hemalatha that they belong to Kurichchan (ST) Community based upon the Community Certificate

already issued to the petitioner's close relative A.Madhusamy and his children.

2.It is the case of the petitioner that he belongs to "Kurichchan Community" which is recognized as Scheduled Tribe community. The parents of the petitioner did not obtain any community certificate since it was not required for them at that time. The parents of the petitioner are illiterates. The petitioner studied only up to 8th Std and he did not obtain any community certificate. In all the school records of the petitioner, his community is entered as "Kurichchan" (ST) Community. The petitioner is having 2 sons and 1 daughter namely 1.K.Jeevan, 2.K.Parthiban and 3.K.Hemalatha. They are studying Diploma in Mechanical, 10th and 6th Standard respectively. Since the educational authorities insisting the petitioner to produce community certificate of his children, he filed an application before the respondent on 07.06.2014 with a request to issue community certificate as Kurichchan (ST) Community.

3.The petitioner along with his application has enclosed the following documents to prove his community status:

1. The school transfer certificate of the petitioner
2. The school certificates of petitioner's children
3. Community certificate of the petitioner's close relative namely A.Madhusamy
4. The family card of the petitioner.

4.Since the respondent has not passed any order on the said application seeking for the issuance of community certificate, the petitioner filed writ petition in W.P.No.22286 of 2014 wherein this Court by order dated 17.10.2014 directed the respondent herein to consider the application of the petitioner on merits. Pursuant to the order passed by this Court, the respondent vide the impugned proceedings in Na.Ka.3104/2014/A4 dated 26.09.2014 rejected the claim of the petitioner to issue community certificate to his children as Kurichchan (ST) Community, by holding that the petitioner has not submitted sufficient documents to substantiate his claim.

5.According to the petitioner, the respondent herein without holding any enquiry and giving an opportunity to him, has passed the rejection order. The said order is non speaking one and the same is made without consideration of the documents produced by the petitioner. Challenging the order of rejection of community certificate the petitioner has filed the present writ petition.

6.The respondent herein filed counter affidavit and contented that it is false to say that the respondent without calling for enquiry and without giving an opportunity of being heard to the petitioner, passed the impugned order on 26.09.2014. The petitioner did not produce any other documents other than the Xerox copies of School Transfer Certificates, school study reports of his children and also a copy of ST certificate issued by the RDO, Dharmapuri to one M. Sabari, S/o. A.Madhusamy of Vattakanampatti village, who was not actually close blood relative of the petitioner. The petitioner has not explained the actual relationship of the above said M.Sabari. There is no illegality in the impugned order of the respondent. Hence the respondent prayed to dismiss the writ petition.

7.We heard Mr.S.Doraisamy, learned counsel appearing for the petitioner and Mr.K.Dhananjeyan, learned Special Government Pleader appearing for the respondent and perused the materials available on record.

8.We have perused the impugned order of the respondent; it is a two para order, without reference to any of the documents produced by the petitioner. Further there is neither appreciation of documentary evidence nor any reference as to how the respondent concluded that the petitioner is not entitled to get community certificate to his children as Kurichchan (ST) community. It is odd to note that there is no say as to when the enquiry was conducted and who were the parties thereto enquired. Furthermore the impugned order is totally silent about the documents perused by the respondent, which made him to arrive at a conclusion. Whereas the only reason assigned to reject petitioner's application is that the documents produced by the petitioner are insufficient to substantiate his claim.

9.At this juncture, it is obvious that in the impugned order nowhere the respondent has discussed about the community certificate of the petitioner's close relative namely A.Madhusamy which was relied upon by the petitioner. But the respondent failed to consider the above said vital document while deciding the community status issue of petitioner. This would go to show the non-application mind of the respondent. The impugned order of the respondent is liable to be quashed on the ground of non-application of mind also. Further, the impugned order is a non-speaking order. The statutory authority is bound to discharge his duty in a manner known to law. Therefore, in this case the impugned order is liable to be quashed on the ground that it is not a reasoned order.

10.For the reason stated supra, we are of the considered opinion that the impugned order of the respondent is warranting interference by this Court and the same is liable to be set aside and accordingly set aside.

11.In the result:

(a) the writ petition is allowed and the impugned order of the respondent made in Na.Ka.3104/2014/A4 dated 26.09.2014 is set aside;

(b) the respondent shall decide upon the application of the petitioner afresh, after giving due notice to the petitioner and proper appreciation of the records available;

(c) such exercise shall be done by the respondent within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vs

To

The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District.

+ 1 cc to Mr. S. Doraisamy, Advocate SR.41402
+ 1 cc to Government Pleader Sr.41723

eu 30.08.17

W.P.No.1506 of 2015

WEB COPY