

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.16501 of 2016

S.Mathaiyan

...Petitioner

vs.

1.The Revenue Divisional Officer
Dharmapuri
Dharmapuri District.

2.The State Level Scrutiny Committee
Adi Dravidar & Tribal Welfare Department
Secretariat, Chennai - 9.

...Respondents

(R2 suo motu impleaded as per order dated 17.04.2017)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus, calling for the records relating to the order of rejection passed in proceedings No.Na.Ka.8487/2015/A4 dated 20.11.2015 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) Minor M.Sudharshan, 2) Minor M.Manisha, and 3) Minor M.Sasithra that they belong to "Kurumans (ST) Community" based upon the community certificate possessed by the petitioner.

For Petitioner : Mr.S.Doraisamy
For Respondents : Mr.K.Dhananjeyan
Spl.Government Pleader

O R D E R

K.K. SASIDHARAN,J.

The petitioner, on the strength of the Community Certificate issued to him on 14 August 1997 by the Revenue Divisional Officer, Dharmapuri, submitted an application before the Revenue Divisional Officer, Dharmapuri, for issuance of

Scheduled Tribe Community Certificates to his minor Children. The application was rejected by the Revenue Divisional Officer, with an observation that the petitioner and his children belong to Kurumbar Community. While rejecting the application, the Revenue Divisional Officer referred the Community Certificate of the petitioner to the State Level Scrutiny Committee. The order passed by the first respondent dated 20 November 2015, is challenged on multiple grounds.

2. The learned counsel for the petitioner contended that in the face of the certificate issued to the petitioner indicating that he belongs to Kurumans Community, the Revenue Divisional Officer was not correct in rejecting the application submitted for issuance of Community Certificates to the children. According to the learned counsel, the Revenue Divisional Officer failed to conduct enquiry in the village and on the basis of the information collected behind the back of the petitioner, the application was rejected. The learned counsel further submitted that the petitioner filed an appeal before the District Collector, Dharmapuri and the said appeal would be withdrawn forthwith.

3. The learned Special Government Pleader, on the basis of the instructions given by the Revenue Divisional Officer contended that the Community Certificate of the petitioner was initially referred to the State Level Scrutiny Committee for verification. The file was sent to the District Collector subsequently by the State Level Scrutiny Committee, on account of the initiation of appeal by the petitioner. The learned Special Government Pleader submitted that the State Level Scrutiny Committee is prepared to verify the community status claim made by the petitioner, in case the pending appeal before the Collector is withdrawn by the petitioner.

4. The documents available on record indicate that the Revenue Divisional Officer, Dharmapuri, issued a Community Certificate to the petitioner, way back on 14 August 1997 indicating that he belongs to Kurumans Community. The petitioner, armed with the said certificate, submitted an application before the Revenue Divisional Officer, Dharmapuri for issuance of Community Certificates to his three minor children. The Revenue Divisional Officer appears to have conducted a roving enquiry in the village and arrived at a conclusion that the petitioner belongs to Kurumbar Community and not Kurumans Community as claimed by him.

5. The string of orders passed by this Court earlier would show that there is no community by name Kurumbar. We are at a loss to understand as to how the Revenue Divisional Officer arrived at a conclusion that the petitioner belongs to Kurumbar

Community. The petitioner was given a certificate indicating his community status. In the normal course, the authorities are bound by the said certificate. In case, the Revenue Divisional Officer is having a doubt with regard to the community status claim made by the petitioner, the appropriate course is to send the certificate for verification to the State Level Scrutiny Committee. In fact, such a course was adopted by the Revenue Divisional Officer, but only after recording that the petitioner belongs to Kurumbar Community. The Revenue Divisional Officer was not correct in making observation with regard to the community status of the petitioner as Kurumbar, even before sending the certificate to the State Level Scrutiny Committee for verification.

6. In the result, the impugned order dated 20 November 2015 is set aside and the matter is remitted to the Revenue Divisional Officer, Dharmapuri for fresh consideration.

7. The petitioner is directed to withdraw the appeal pending before the District Collector, so as to enable the District Collector to return the records to the Revenue Divisional Officer. The Revenue Divisional Officer is directed to keep the application of the petitioner for community certificates pending and to take up the matter after passing orders by the State Level Scrutiny Committee. Since the learned counsel for the petitioner agreed that the appeal would be not pressed during the course of this week, there shall be a direction to the District Collector to forward the papers to the Revenue Divisional Officer by next week. The Revenue Divisional Officer shall forward the papers to the State Level Scrutiny Committee for verification as expeditiously as possible and in any case, on or before 07 July 2017. The State Level Scrutiny Committee is directed to take up the verification process and dispose of the matter as expeditiously as possible and in any case, on or before 31 October 2017.

The writ petition is allowed as indicated above. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

(dna/gms)

To

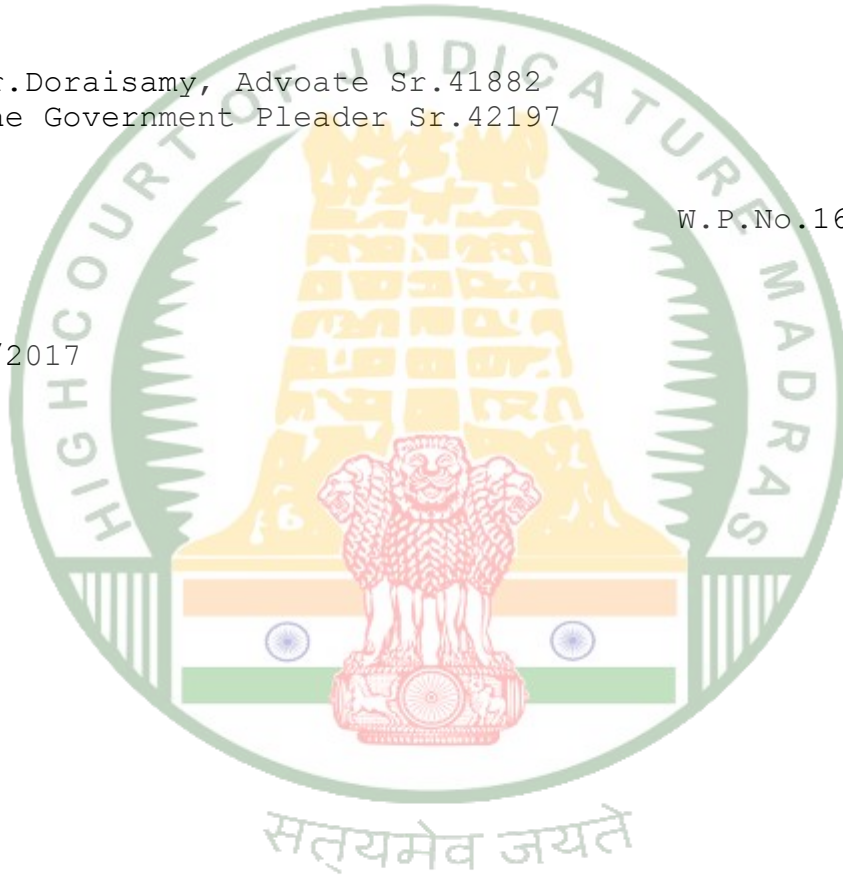
1.The Revenue Divisional Officer
Dharmapuri
Dharmapuri District.

2.The State Level Scrutiny Committee
Adi Dravidar & Tribal Welfare Department
Secretariat, Chennai - 9.

+1cc to Mr.Doraisamy, Advocate Sr.41882
+1cc to the Government Pleader Sr.42197

W.P.No.16501 of 2016

mg[col]
srg 30/06/2017



WEB COPY