

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2017

CORAM

THE HON'BLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.30075 of 2016
and
W.M.P.No.26061 of 2016

Rifana A.P.

... Petitioner

Vs.

1.The Government of Puducherry,
Rep. by its Secretary to Government,
(Revenue Department),
Puducherry.

2.The Deputy Collector (Revenue),
Mahe.

3.Deputy Tahsildar (Revenue),
Mahe.

4.The Village Administrative Officer,
Mahe.

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to order vide No.29/STOM/T3/2016, dated 03.06.2016 passed by the third respondent and order vide No.1463.DCRM.A.1/2015-16, dated 04.07.2016 passed by the second respondent and quash the same and direct the third respondent to grant nativity certificate and residence certificate to the petitioner.

For Petitioner : Mr.Raja Shrinivas

For Respondents : Mr.J.Kumaran

Government Advocate (Puducherry)

ORDER

The petitioner has filed the above writ petition to issue a Writ of certiorarified mandamus to call for the records relating to the order dated 03.06.2016 passed by the third respondent and the order dated 04.07.2016 passed by the second respondent and quash the same and to direct the third respondent to grant nativity certificate and residence certificate to the petitioner.

2.It is the case of the petitioner that she is a native of Mahe and belongs to OBC category. The petitioner has completed her schooling and teacher training course at Mahe and she was awarded with the teacher training certificate by the Department of Education, Government of Kerala.

3.The petitioner's husband is working in the Gulf country for the past five years and she is residing with her parents in Mahe in the address mentioned above. When the petitioner applied for nativity certificate by an application dated 01.06.2016 for the purpose of securing job at Union Territory of Puducherry along with all the relevant documents and also the documents to show that the petitioner is continuously residing at Mahe for the past five years. The third respondent rejected the application of the

petitioner for nativity certificate/residence certificate by an order dated 03.06.2016, on the ground that the petitioner and her family have not been residing in the address mentioned by her. In the rejection order, the respondent has stated that an enquiry was conducted on 01.06.2016, but on the particular date, the petitioner was in Dubai. According to the petitioner the order is passed on the basis of the discreet field enquiry conducted by the revenue officials.

4.Challenging the order dated 03.06.2016 passed by the third respondent, the petitioner preferred an appeal dated 09.06.2016 before the second respondent. However, the second respondent also rejected the petitioner's appeal. The second respondent in his order stated that after the petitioner's marriage, since her husband is in the foreign country, the petitioner has been residing with her parents in Kerala.

5.The learned counsel appearing for the petitioner submitted that the respondents 2 and 3 should not have conducted discreet field enquiry and that they should have conducted open enquiry giving opportunity to the petitioner. In support of his contention, the learned counsel has relied upon the unreported Judgment dated 29.07.2016 of this Court made in W.P.No.25690 of 2016, whereas this Court has held as follows. The ratio

laid down in the above said order squarely applies to the facts and circumstances of the case. The learned Additional Government Pleader fairly submitted that the issue involved in the present writ petition is covered by the decision relied upon by the learned counsel for the petitioner.

6. Having regard to the submissions made by the learned counsel appearing on either side and following the ratio laid down in W.P.No.25690 of 2016 dated 29.07.2016, the impugned orders passed by the respondents 2 and 3 are set aside and the matter is remanded back to the third respondent for fresh consideration.

7. The third respondent is directed to conduct an enquiry and pass orders in accordance with law, after giving notice to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

8. With these observations, this writ petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Index : No
Internet : Yes

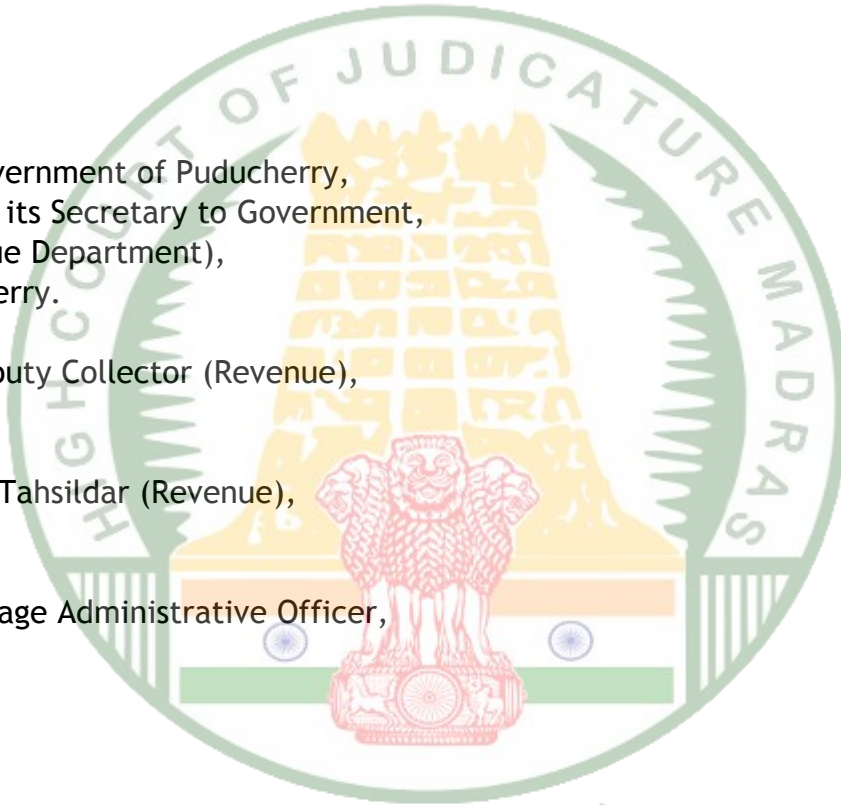
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M.DURAI SWAMY, J.
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To

- 1.The Government of Puducherry,
Rep. by its Secretary to Government,
(Revenue Department),
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- 2.The Deputy Collector (Revenue),
Mahe.
- 3.Deputy Tahsildar (Revenue),
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