IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2017

CORAM

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

W.P. No.15874 of 2014
and M.P.No.1 of 2014

A. Siva
S/o.Arumugam ...Petitioner

Vs.

1. The Revenue Divisional Officer,
   Collectorate (Master Plan Complex),
   Villupuram.

2. The Directorate of Technical Educational
   Sardar Patel Road,
   Guindy, Chennai - 600 020

3. The Principal
   A.R.Engineering College
   Vadakuchipalayam
   Kappiyampuliyur Post
   Villupuram 605 601.

4. The Secretary to Government
   State Level Scrutiny Committee
   Adi Dravidar & Tribal Welfare Department
   Secretariat, Chennai 600 009.
   ...Respondents

[R4 suo motu impleaded as per order dated 19.06.2014]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, writ of Certiorarified mandamus calling for the records in connection with the order of the 1st respondent dated 14.03.2014 in Na.Ka.A5/4606/2013 and quash the same and consequently direct the 1st respondent to issue a community certificate to the petitioner to the effect that the belongs to Kattunayakan Schedule Tribe Community and further direct the respondents 2 & 3 to permit the petitioner to complete his B.E.Mechanical Engineering Course with the 3rd respondents College.

For Petitioner : Mr.R.Srinivas
For R1,R2&R4 : Mr.K.Venkatramani AAG
Asst.by
: Mr.Thananjayan, Spl. GP

O R D E R

K.K. SASIDHARAN,J.

This writ petition is directed against the order dated 14 March 2014 on the file of the Revenue Divisional Officer, Villupuram, rejecting the application submitted by the petitioner for issuance of a Scheduled Tribe Community Certificate.

2. The petitioner submitted an application for Community Certificate before the Revenue Divisional Officer stating that he belongs to Kattunayakan community, which is declared as a Scheduled Tribe. The petitioner placed reliance on the Community Certificate issued to his brother to prove that he also belongs to the same community. The Revenue Divisional Officer appears to have conducted enquiry through the Tahsildar and thereafter, rejected the request. The said order is under challenge in this writ petition.

3. The learned counsel for the petitioner contended that the brother of the petitioner has already been issued with a Community Certificate. The Revenue Divisional Officer was therefore, bound to issue a certificate to the petitioner. The learned counsel further contended that notwithstanding the School Certificate indicating that the petitioner belongs to Kattunayakan Community, the Revenue Divisional Officer stated in the impugned order that the School record shows that the petitioner belongs to Hindu Kuravar Community. The learned counsel therefore, seeks to set aside the impugned order and a direction to issue a Community Certificate to the petitioner.

4. The learned Additional Advocate General, while justifying the impugned order submitted that local enquiry was conducted by the Revenue Divisional Officer before deciding the community status. According to the learned Additional Advocate General, the community status of the brother of the petitioner was not subjected to verification by the State Level Scrutiny Committee and as such, no reliance could be placed on such certificate.

5. The petitioner armed with a Community Certificate issued in favour of his brother by name Venkatesh, submitted application for a Community Certificate to him. The Revenue

Divisional Officer referred the matter to the Tahsildar for enquiry. The Tahsildar appears to have submitted a positive report indicating the community status claimed by the petitioner. The Revenue Divisional Officer disregarded the said report and arrived at a finding that the available materials does not indicate that the petitioner belongs to Kattunayakan Community.

6. There is no dispute that a Community Certificate was issued earlier, to the brother of the petitioner. The said Certificate is a valid piece of evidence to prove the community status of the petitioner. There is no question of disregarding the Community Certificate of the brother without producing prima facie materials indicating that he obtained the certificate fraudulently.

7. Similarly, the Revenue Divisional Officer appears to have conducted discreet enquiry and the materials collected in the said enquiry were also used to reject the claim made by the petitioner. The procedure adopted by the Revenue Divisional Officer appears to be in violation of the dictum laid down by 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].

8. The Revenue Divisional Officer was expected to conduct enquiry in the village with notice to the petitioner. There is no question of collecting materials behind the back of the petitioner and using those materials to reject his claim. There is no discussion in the order with regard to the community status obtained by the brother of the petitioner, which is still valid. In view of these procedural lacuna committed by the Revenue Divisional Officer, we are of the view that the impugned order is liable to be set aside.

9. In the result, the order dated 14 March 2014 is set aside. The matter is remitted to the Revenue Divisional Officer, Villupuram, for fresh consideration. The Revenue Divisional Officer is directed to conduct enquiry and decide the matter taking into account the documents produced by the petitioner. In case the Revenue Divisional Officer entertains a doubt with regard to the genuineness of the Community Certificate obtained by the brother of the petitioner, it is open to the said authority to refer the matter to the State Level Scrutiny Committee. In any case, the issue shall be considered and decided by the Revenue Divisional Officer on merits and as per law. Such exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

The writ petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CSVIII)

True Copy

Sub-Assistant Registrar

gms
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+1 cc to the Government Pleader sr 24066

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