IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE M.V. MURALIDARAN

W.P. No. 16575 of 2014

R.Palanisamy ...Petitioner

Vs

The Revenue Divisional Officer
Krishnagiri
Krishnagiri District. ...Respondent

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorarified mandamus, calling for the records from the respondent relating to the impugned order dated 14.02.2014 bearing Na.Ka.1553/2013/A and quash the same and further direct the respondent for issuance of community certificate to the petitioner, based on social and cultural aspects.

For Petitioner : Mr.M.Ravi

For Respondent : Mr.K.Venkatramani
Additional Advocate General
Assisted by Mr.A.Kumar,
Special Government Pleader

O R D E R

K.K.SASIDHARAN,J.

This writ petition is directed against the order dated 14 February 2014 on the file of the Revenue Divisional Officer, Krishnagiri, rejecting the request made by the petitioner for issuance of a Scheduled Tribe Certificate indicating that he belongs to Kurumans Community.

2. The petitioner, claiming that he is a first generation applicant for Community Certificate, made an application before the Revenue Divisional Officer, Krishnagiri. The Revenue Divisional Officer, appears to have conducted a discreet enquiry

and on the basis of the materials collected in the said enquiry, rejected the claim made by the petitioner. Feeling aggrieved by the said order, the petitioner has come up with this writ petition.

3. The learned counsel for the petitioner contended that while rejecting the Community status claimed by the petitioner, the Revenue Divisional Officer, failed to take into account the report submitted by the team deputed to verify the cultural aspects of the community in question in the District of Krishnagiri. The learned counsel contended that there was no attempt made by the respondent to consider the cultural aspects of the Kurumans community. It was further contended that there is no community by name Kurumbar, so as to deny the claim made by the petitioner on the ground that earlier Certificate indicating Kurumbar Community was issued to his near relatives.

4. The learned Additional Advocate General on the other hand contended that there is no community by name Kurumans in the District of Krishnagiri. According to the learned Additional Advocate General, Kurumans were living in hilly areas and not in developed areas like Krishnagiri. It was further contended that the petitioner failed to produce any evidence in support of his claim relating to the community status.

5. The order passed by the Revenue Divisional Officer and the averments in the counter affidavit proceeds as if local enquiry was conducted through the jurisdictional Tahsildar and on the basis of the materials collected in the said enquiry, the community status claim made by the petitioner was rejected.

6. It is the case of the petitioner that he is a first generation applicant and his father was a shepherd and he has not gone to School. In case, the petitioner is a first generation applicant, who had no occasion to join the educational institution or to obtain the benefits earmarked for the Scheduled Tribe Community, necessarily, a detailed enquiry should be conducted in the village by the Revenue Divisional Officer. It is true that in the subject case, the Revenue Divisional Officer examined certain witnesses through the jurisdictional Tahsildar and recorded their statements. The petitioner was not provided with such documents, so as to enable him to ascertain as to whether the statements given by such witnesses were correct. In any case, there was no enquiry conducted by the Revenue Divisional Officer, taking into account the directions issued 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]. In fact, in another judgment in Anand vs. Committee for Scrutiny and Verification of Tribe Claims and Others [(2012) 1 SCC 113], the Supreme Court made it very clear that in case the applicant is the first generation ever to attend school, the availability of any documentary evidence becomes difficult, but that ipso facto does not call for the rejection of his claim for the Community Certificate.

7. While conducting enquiry by the Revenue Divisional Officer, he should be sensitive to the issue in question. In case, the applicant is a genuine Scheduled Tribe, he should be given the Community Certificate. Similarly, if it is made out that the claim is bogus and not genuine, no Certificate should be issued to such people, as the ultimate loss would be only to the genuine Scheduled Tribe candidates.

8. Since, neither the order passed by the Revenue Divisional Officer nor the file produced before us indicate that the enquiry was conducted in accordance with the guidelines issued by the Supreme Court and subsequently by the Government, the impugned order is liable to be set aside.

9. In the result, the order dated 14 February 2014 is set aside. The matter is remitted to the Revenue Divisional Officer, Krishnagiri for fresh consideration.

10. The petitioner is directed to produce the available materials before the Revenue Divisional officer to substantiate his claim that he belongs to Kurumans Community. The Revenue Divisional Officer is directed to conduct a detailed enquiry in the village in question, through the jurisdictional Tahsildar. In case, the statements of witnesses are recorded, necessary opportunity should be given to the petitioner to cross examine such witnesses. The petitioner would not be permitted to take the assistance of lawyers for cross-examination. The enquiry should be summary in nature. However, the Revenue Divisional Officer must ensure that the attempt should be made to ascertain as to whether the petitioner belongs to the Scheduled Tribe Community and for the said purpose, he should verify all the required documents and other available evidence. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

The writ petition is allowed to the extent indicated above. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gms

To

The Revenue Divisional Officer
Krishnagiri
Krishnagiri District.

+1cc to Mr.M.Ravi, Advocate, S.R.No.25611
+1cc to the Government Pleader, S.R.No.26458

W.P. No. 16575 of 2014

NMI(CO)
CS/27/06/17