

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2017

CORAM :

THE HON'BLE MR. JUSTICE C.T.SELVAM
AND
THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

Writ Petition No.26739 of 2017 and
WMP.No.28468 of 2017

V.Sivasubramani

.. Petitioner

Vs

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Adi-Dravidar and Tribal Welfare (CV-4(2)) Department,
Secretariat, Chennai - 600 009.
- 2.The Tamil Nadu State Level Caste Scrutiny Committee,
Rep. by its Chairman and Secretary to Government,
Adi-Dravidar and Tribal Welfare (CV-4(2)) Department,
Secretariat, Chennai - 600 009.
- 3.The Director,
Tribal Welfare,
Chennai - 600 005.
- 4.The Deputy Superintendent of Police,
Social Justice and Human Rights Section,
District Police Office,
Nethimedu, Salem District.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India to issue a writ of Certiorari, calling for the records relating to the Letter No.12057/CV-4(2)/2009-5 dated 10.03.2017 on the file of the 1st respondent and the consequential notice issued in C.No.142/SJHR/ SLM/2017 dated 05.10.2017 on the file of the 4th respondent, quash the same.

For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.S.N.Parthasarathy
Government Advocate

ORDER

(Order of this Court was made by M.V.MURALIDARAN,J.)

The petitioner has filed this writ petition seeking issuance of a writ of Certiorari to call for the records relating to the Letter No.12057/CV-4(2)/2009-5, dated 10.03.2017 on the file of the first respondent and the consequential notice issued in C.No.142/SJHR/SLM/2017, dated 05.10.2017 on the file of the fourth respondent quash the same.

2. The facts in a nutshell are as under: The petitioner belongs to "Kurumans" Community, which is a Scheduled Tribe Community, and a certificate to that effect was issued by the Head Quarters Deputy Tahsildar, Dharmapuri on 25.7.1980. Thereafter, the petitioner also obtained a community certificate from the Tahsildar, Omalur on 30.12.1985.

3. The petitioner made an application to the Revenue Divisional Officer, Dharmapuri, on 29.04.2005 seeking issuance of community certificates to his two children. As the Revenue Divisional Officer, Dharmapuri, did not issue community certificates, the petitioner filed W.P.No.8102 of 2009, wherein this Court, by order dated 28.4.2009, directed the Revenue Divisional Officer, Dharmapuri, to dispose of the application of the petitioner in accordance with law within a period of three months therefrom. However, the Revenue Divisional Officer, Dharmapuri, rejected the application of the petitioner on 13.7.2009.

4. Assailing the said proceedings dated 13.07.2009, the petitioner filed W.P.No.15989 of 2009, wherein this Court, by order dated 10.08.2009, directed the petitioner to approach the State Level Vigilance Committee for scrutinizing the genuineness of the social status of the petitioner's children.

5. In the meanwhile, the employer of the petitioner also referred the community certificate of the petitioner to the second respondent/Committee for verification. The second respondent/ Committee conducted a detailed enquiry and rendered its finding on 24.03.2014 to the effect that the petitioner belongs to Hindu "Kurumans" Scheduled Tribe Community and that the community certificates issued to the petitioner are genuine. Based on the said report, necessary entries were also made in the service records of the petitioner and the petitioner's children were also issued community certificates.

6. It is alleged that, when things so attained finality, the first respondent vide proceedings dated 10.03.2017 directed the second respondent to make a Vigilance Cell enquiry on the "Kurumans" Scheduled Tribe Caste Certificate issued to the

petitioner and send a report. Based on the said communication of the first respondent, the fourth respondent issued notice dated 05.10.2017 directing the petitioner to appear for an enquiry to be held on 11.10.2017.

7. Assailing the said proceedings, the present writ petition is filed for the relief stated supra.

8. The learned counsel for the petitioner vehemently contended that when the second respondent/Committee after detailed enquiry of the social status of the petitioner had passed an order on 24.03.2014 to the effect that the petitioner belongs to Kurumans Community, the first respondent has no locus standi to re-open the case and conduct another enquiry for the verification of the genuineness of the community certificate.

9. To buttress his argument that the order passed by the second respondent/Committee is final and conclusive and subject to the proceedings under Article 226 of the Constitution of India, he placed reliance on G.O.2(D) No.108, Adi Dravidar and Tribal Welfare (CV-1) Department, dated 12.09.2007 and G.O.Ms.No.106, Adi Dravidar and Tribal Welfare (CVI) Department, dated 15.10.2012.

10. The learned Government Advocate appearing on behalf of the respondents reiterated the reasons that weighed with the respondent authorities in passing the impugned orders and prayed for dismissal of the writ petition.

11. In the case on hand, admittedly, the petitioner was issued with community certificates by the Head Quarters Deputy Tahsildar, Dharmapuri on 25.07.1980 and by the Tahsildar, Omalur on 30.12.1985 and the same have till date not been set aside in a manner known to law. The said fact was also registered in the service register of the petitioner by his employer.

12. Qua the competency of the Tahsildar to issue the said community certificate, it is apposite to refer to the decision of the Supreme Court in R.Kandasamy v. The Chief Engineer, Madras Port Trust, (1997) 7 SCC 505, wherein it is emphatically held as under:

"6. In our opinion the community certificate issued to a Scheduled Tribe candidate by the Tahsildar prior to 11.11.1989 is a good and valid community certificate for all purpose so long such as a certificate is not cancelled. The authorities cannot decline to take that into consideration."

13. In the light of the decision, referred supra, the respondents are bound to take into consideration the community certificate issued to the petitioner by the Tahsildar, who is a

competent authority, at the relevant time. In any event, such community certificate was issued to the petitioner prior to 11.11.1989.

14. The case of the petitioner is fortified by the proceedings of the second respondent/Committee dated 24.03.2014, wherein, after thorough verification of the original documents; the opinion of the Anthropologist qua the cultural aspects of the petitioner; and all other relevant factors, it was unanimously decided that the petitioner belongs to Hindu "Kurumans" Scheduled Tribe Community and that the community certificate issued to him is genuine. Ultimately, the second respondent/Committee instructed the Revenue Divisional Officer, Dharmapuri, to issue Scheduled Tribe "Kurumans" Community Certificate to the children of the petitioner.

15. In Kumari Madhuri Patil and Anr. v. Addl. Commissioner, Tribal Development and Ors. (AIR 1995 SC 94), the Supreme Court has held that the dispute with regard to the caste of S.C./S.T./O.B.C. should be decided by the State Level Caste Scrutiny Committee. In the case on hand, the veracity of community certificate of the petitioner was thoroughly verified and held to be genuine by the State Level Caste Scrutiny Committee.

16. In our considered opinion, once a report is received from a competent authority, on thorough enquiry, that the community certificate issued to the petitioner is genuine, the certificate holder cannot be further harassed to prove his case or community in any other manner and holding of such enquiry on the same subject concluded long ago shall only tantamount to harassment and violation of Article 21 of the Constitution of India. We find no reason to justify the impugned proceedings.

17. In the result, this writ petition is allowed by setting aside the Letter No.12057/CV-4(2)/2009-5 dated 10.03.2017 on the file of the 1st respondent and the consequential notice issued in C.No.142/SJHR/ SLM/2017 dated 05.10.2017, on the file of the 4th respondent. No costs. Consequently, W.M.P.No.28648 of 2017 is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vs

To

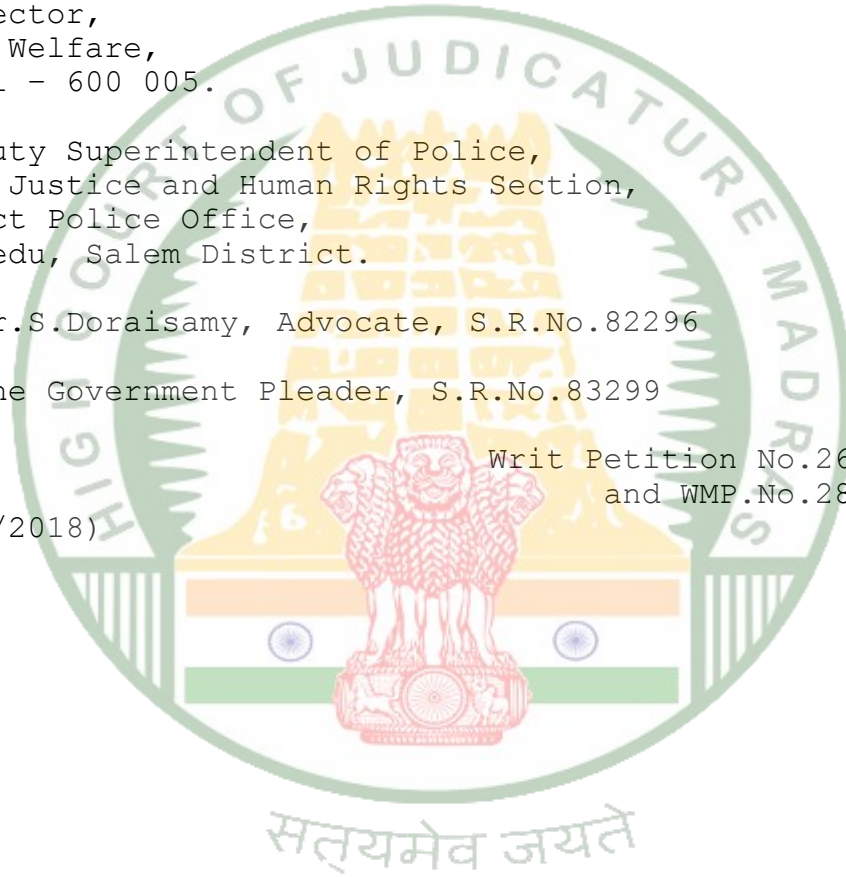
- 1.The Principal Secretary to Government,
Adi-Dravidar and Tribal Welfare (CV-4(2)) Department,
Secretariat, Chennai - 600 009.
- 2.The Chairman and Secretary to Government,
Tamil Nadu State Level Caste Scrutiny Committee,
Adi-Dravidar and Tribal Welfare (CV-4(2)) Department,
Secretariat, Chennai - 600 009.
- 3.The Director,
Tribal Welfare,
Chennai - 600 005.
- 4.The Deputy Superintendent of Police,
Social Justice and Human Rights Section,
District Police Office,
Nethimedu, Salem District.

+1cc to Mr.S.Doraisamy, Advocate, S.R.No.82296

+1cc to the Government Pleader, S.R.No.83299

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RRK(20/03/2018)



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