

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:27.07.2017

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE Mr. JUSTICE P.D.AUDIKESAVALU

W.P.No.19177 of 2017

A.Chandran

.. Petitioner

Vs.

1. The Collector,
Kancheepuram District,
Kancheepuram - 631 501

2. The Tahsildar,
Kancheepuram Taluk Office,
Kancheepuram - 631 501

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents to issue a Community Certificate to the Petitioner.

For Petitioner : Mr.V.Manoharan

For Respondents : Mr.M. Elumalai
Government Advocate

O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

Heard both sides. No counter is filed on behalf of the Respondents. By consent of both sides, the main Writ Petition itself is taken up for final disposal.

2. According to the Petitioner, he was born on 19.03.1992 at Enathur Village, Kancheepuram Taluk, Kancheepuram District. His Father's name is V.Arumugham and Mother's Name is Kanniyammal. Further, his father is working as Scavenger and mother is working in 100 days Guarantee Working Scheme, namely, Mahatma Gandhi National Rural Employment Guarantee Scheme and they are illiterate persons.

3. The categorical plea of the Petitioner is that his parents belong to 'Devar Community' sub clause 'Maravar', which comes under Backward Class, as per Government Order. Also that

he had studied up to 8th Standard in Panchayat Union Middle School, Enathur i.e., in his native village, Kancheepuram. Subsequently, he studied in Dr.P.S.S Municipal Higher Secondary School, Kancheepuram Town. He had completed his S.S.L.C. and H.S.C. in the very same school. After completion of his schooling, he joined in the Diploma Course at Sri Annamalaiyar Polytechnic College, Cheyyar Taluk, Tiruvannamalai District and completed Diploma in Mechanical Engineering.

4. At this stage, the Learned Counsel for the Petitioner submitted that the Petitioner endeavoured to join the Engineering College for doing his further studies, for which, he required the Community Certificate and therefore, he approached Tahsildar, Kancheepuram Taluk / 2nd Respondent in the year 2012 for obtaining the Community Certificate. The said application was received from the Petitioner and he was required to come after 10 days. When he met the concerned authorities, unfortunately, they gave a shocking reply to him that his Community is not included in the list of Kancheepuram District and therefore, they are not in a position to issue Community Certificate to him, as such, he is not in a position to pursue his higher studies, even though nearly Four Engineering Colleges are willing to provide a seat to him. Further, his dreams for higher studies are destroyed because of non furnishing of Community Certificate by the Concerned Revenue Authority.

5. Advancing his arguments, the Learned Counsel for the Petitioner projects an argument that the Petitioner's Friend's Father and Brothers had advised him to approach the 1st Respondent / District Collector in regard to the issuance of the Community Certificate and accordingly, he made a representation to the 1st Respondent / District Collector, Kancheepuram on numerous occasions from the year 2014 to 2017, but, they had not considered his request till date, therefore, he was performed to make a representation on the 'People Redressal of Grievances Day', which was conducted by the 1st Respondent, till date, the Petitioner is not issued with the Community Certificate.

6. The core grievance of the Petitioner is that the 1st Respondent / District Collector, Kancheepuram should have passed an order in directing the 2nd Respondent / Tahsildar to issue the Community Certificate. However, that course of action was not resorted to by the 1st Respondent. Moreover, the oral reasons assigned by the 2nd Respondent / Tahsildar, Kancheepuram for non issuance of the Petitioner's Community Certificate, ie., his community is not included in Kancheepuram District is not at all a valid one, because of the simple reason that the issuance of Community Certificate is to be made after due and proper enquiry and if any necessity arises to secure the orders from the Superior Authority.

7. At this stage, Mr.Elumalai, Learned Government Advocate appearing for the Respondents brings to the notice of this Court that the Tahildar, Kancheepuram in his communication dated 26.07.2017 addressed to the Government Advocate, High Court, Madras had interalia stated that as per the Government Order in force, 'the Devar Community' is not included in the Backward / Most Backward list and therefore, there is no room for issuance of 'Devar Community Certificate' to and in favour of the Petitioner. Also that even for obtaining certificate through Internet, the Community 'Devar' does not find place in the software. Hence the 2nd Respondent had informed the Government Advocate that in Kancheepuram District, the certificate mentioning 'Devar Community' could not be issued.

8. Be that as it may, in view of the fact that the Petitioner has filed an affidavit before this Court in W.P.No.19177 of 2017 to the effect that his parents belong to 'Devar Community, sub clause Maravar', which comes under Backward Class, as per Government Order (which is not disputed on the side of the 2nd Respondent / Tahsildar, Taluk Office / District), this Court on the basis of Equity, Fair play, Good Conscience and even as a matter of prudence, directs the Petitioner to file a fresh Petition before the 2nd Respondent / Tahsildar, Taluk Office, Kancheepuram District seeking Community Certificate by specifically mentioning that he belongs to Sub-Clause 'Maravar of Devar Community / Backward Class Community' and also to enclose necessary supporting documents like Transfer Certificate issued by Dr.P.S.S.Municipal Higher Secondary School dated 31.05.2010, Transfer Certificate issued by Sri Annamalaiyar Polytechnic College dated 29.04.2013 in his favour etc., within a period of 10 days from the date of receipt of a copy of this Order. On receipt of the fresh Petition filed by the Petitioner, then, it is incumbent on the 2nd Respondent / Tahsildar, Kancheepuram District to consider the said Petition in a Fair, Free, Unbiased, with an open mind, uninfluenced, untrammelled by any of the observation made by this Court in a dispassionate manner by not taking into consideration the earlier order of rejection in Na.Ka.No.2651/2017/A4 dated 26.07.2017 and to pass a reasoned speaking order in regard to the issuance of Community Certificate as required by the Petitioner, of course, keeping in mind the existing Government Order within a period of four weeks thereafter. Also the 2nd Respondent / Tahsildar, Kancheepuram District is to pass a fresh order in question after providing due opportunity to the Petitioner, of course by adhering to the ' Principles of Natural Justice'.

9. Soon after passing a reasoned speaking order and after due enquiry, if the 2nd Respondent finds that the Petitioner do belongs to 'Maravar Community' (Backward Class Community), then, without any haziness or hesitation or without any further loss of time is to issue a Community Certificate in question to and in favour of the Petitioner.

10 With the aforesaid observation(s) the Writ Petition is disposed of. There shall be no order as to costs.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

ssd

To

1. The Collector,
Kancheepuram District,
Kancheepuram - 631 501

2. The Tahsildar,
Kancheepuram Taluk Office,
Kancheepuram - 631 501

+1cc to Mr.V.Manohar, Advocate sr.53159

+1cc to Government Pleader sr.53975

सत्यमेव जयते

W.P.No.19177 of 2017

ss(11/8/2017)

WEB COPY