

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.04.2017

CORAM:

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

W.P.No.6458 of 2015 and
M.P.No.1 of 2015

N.S.Shanmugasundaram

...Petitioner

vs.

The Revenue Divisional Officer,
Thiruttani Division,
Thiruvallur District.

..Respondent

Writ Petition filed under Article 226 of the Constitution of India praying a writ of Certiorarified Mandamus, calling for the records of the respondent in Na.Ka.No.1335/2014/A3 dated 12.01.2015, quash the same and consequently direct the respondent to issue the Scheduled Tribe (S.T) Konda Reddies Community Certificate to the petitioner's children.

For Petitioner : Mr.A.Sivaji

For Respondent : Mr.A.Kumar
Spl.Govt.Pleader

O R D E R

K.K. SASIDHARAN, J.

This writ petition is directed against the order dated 12 January, 2015 on the file of the Revenue Divisional Officer, Thiruttani Division, Thiruvallur, rejecting the application submitted by the petitioner for issuing Community Certificates to his minor children on the strength of the Community Certificate issued to him.

The Background:

2. The petitioner is the son of Thiru.N.Subramania Reddy, who was declared as "Konda Reddies" by the Tahsildar, Pallipet. The petitioner was also declared as a member of the "Konda Reddies" community by the Personal Assistant to the District Collector of Madras, stated to be the authority at that point of

time empowered to issue Community Certificate.

3. The petitioner, on the strength of the Community Certificate issued to him submitted application before the Revenue Divisional Officer, to issue Community Certificates to his minor children.

4. The respondent rejected the application on the ground that the local enquiry revealed that the petitioner belongs to "Konthalakulam". community and does not belong to "Konda Reddis" community. The respondent in the impugned order indicated that the father of the petitioner by misrepresentation obtained a community certificate and as such, no reliance could be placed on the said document to prove the community status of the petitioner and his children. The order is under challenge on multiple grounds, including non-consideration of the documents produced by the petitioner to prove his community status.

5. The respondent filed a counter affidavit justifying the order rejecting the request to issue Community Certificate. According to the respondent, enquiry was conducted by the local Tahsildar in the village. The enquiry revealed that there are no Konda Reddis residing in and around Pallipet Taluk. According to the respondent, no reliance could be placed on the certificate obtained by the father of the petitioner fraudulently.

Submissions:

6. The learned counsel for the petitioner contended that the certificates issued to the petitioner and his father are still valid. The petitioner produced series of documents to prove his contention that even his relatives were issued with Community Certificates indicating that they belong to "Konda Reddis" Community. According to the learned counsel, the respondent, without any rhyme or reason rejected the application for Community Certificates. The learned counsel, therefore, seeks a positive direction to the respondent to issue Community Certificates to his children.

7. The learned Special Government Pleader, while justifying the impugned order, contended that the local enquiry conducted by the Revenue Divisional Officer revealed that there is no "Konda Reddis" community in the village of the petitioner. According to the learned Special Government Pleader, the petitioner and his father secured Community Certificates fraudulently and as such, those documents are not valid piece of evidence to prove the community status of the children of the

petitioner.

Discussion:

8. The petitioner submitted application before the Revenue Divisional Officer, Tiruttani Division, requesting to issue Community Certificates in favour of his children S.Swetha and S.Tharunsantosh. The petitioner appears to have placed reliance on the Community Certificates issued to his father and subsequently in his favour to prove the community status.

9. The documents available on record indicates that the father of the petitioner obtained a Community Certificate dated 20 September 1969 indicating that he belongs to "Konda Reddies" community, which is notified as a Scheduled Tribe. Similarly, the petitioner obtained a community status certificate from the Personal Assistant to the Collector of Madras, dated 1.11.1985, declaring his community status. The respondent has no case, that the authorities, who have issued the certificates to the petitioner and his father were not competent at that point of time to issue community status certificates. The Community Certificates, dated 20 September 1969 and 1 November 1985 were discarded by the Revenue Divisional Officer, on the ground that those certificates were obtained fraudulently.

10. The petitioner has placed reliance on the order dated 12 October 1992 issued by the Collector of Madras confirming the Scheduled Tribe Community Status of Mr.M.Karunaka Reddy, who is stated to be his maternal uncle. Similarly, he placed reliance on the Community Certificate, dated 22 June 1998 issued in the name of the daughter of his paternal uncle. The order impugned in this writ petition does not contain any reference that those documents were considered to arrive at a finding.

11. The Community Certificate issued to the father of the petitioner and subsequently to the petitioner are valid piece of evidence to prove their community status. The respondent is only a successor-in-interest. The Community Certificate of the petitioner was issued by the Personal Assistant to the Collector of Madras, designated authority to issue Community Certificate at that point of time. It is not open to the respondent to sit on appeal against the order passed by the Personal Assistant to the District Collector and make an observation that the certificate was obtained fraudulently.

12. The respondent appears to have conducted discreet enquiry in the village through jurisdictional Tahsildar and used the enquiry report to reject the claim made by the petitioner. We are not in a position to approve the process undertaken by the respondent to verify the community status of the petitioner

and his children.

13. The respondent in the ordinary course is bound to accept the certificates issued by the competent authority earlier recognising the community status. It is not sufficient by making an observation that the certificates were obtained fraudulently. The respondent must produce prima facie materials to prove as to how the certificates were obtained fraudulently. Mere statement in the impugned order that certificates cannot be relied on, as those documents were obtained fraudulently would not suffice. In case, there are documents suggesting that the petitioner or his father obtained Community Certificates fraudulently, the only course open to the respondent is to produce those materials before the State Level Scrutiny Committee with a request to conduct scrutiny. Since certificates were not subjected to verification process earlier, such a course would be the best available method to verify the community status claimed by the petitioner.

14. The Revenue Divisional Officer virtually overruled the findings recorded by the Personal Assistant to the District Collector earlier holding that the petitioner belongs to "Konda Reddis" community, which is a notified Scheduled Tribe. Such a course is not permissible.

15. The petitioner has produced certain other documents to prove that community status certificates were issued to his relatives, stating that they belong to Scheduled Tribe Community. None of those certificates were taken note of by the Revenue Divisional officer. We are therefore of the view that the issue requires fresh consideration by the respondent.

16. In the result, the order dated 12 January 2015 is set aside. The matter is remitted to the Revenue Divisional Officer, Tiruttani for fresh consideration.

17. The Revenue Divisional Officer, Thiruttani, is directed to take note of the observation made above and dispose of the application for community status on merits and as per law. Such exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar

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Sub Assistant Registrar

svki

To

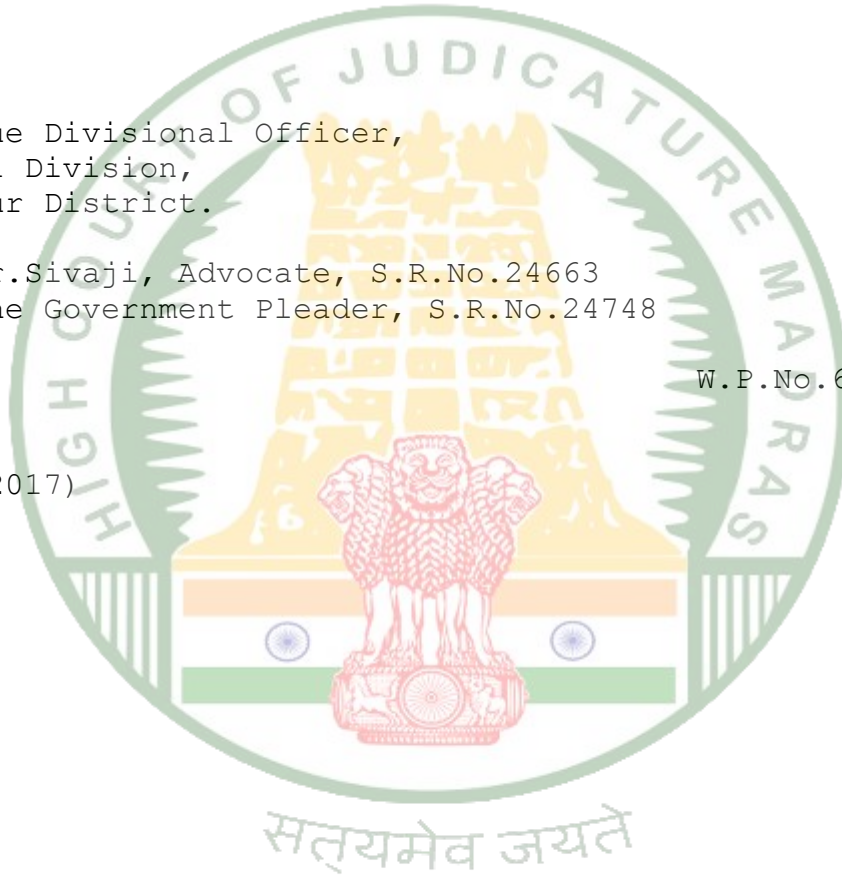
The Revenue Divisional Officer,
Thiruttani Division,
Thiruvallur District.

+1cc to Mr.Sivaji, Advocate, S.R.No.24663

+1cc to the Government Pleader, S.R.No.24748

W.P.No.6458 of 2015

KGK(CO)
RS(26/04/2017)



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