

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2017

CORAM

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

W.P.Nos.9535 AND 11852 of 2016

W.P.No.9535 of 2016

1.K.Annamalai
2.A.Preethi
3.A.Senthilkumar

... Petitioners

vs.

The Revenue Divisional Officer,
Tiruttani,
Tiruvallur District-631 209.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the rejection order of the respondent in proceedings in Na.Ka.2555/2013/A1 dated 14.01.2016 quash the same and direct the respondent to issue community certificate to the petitioner's daughter and son namely 2nd and 3rd petitioners that they belong to Kondareddis (ST) Community based upon the community certificate already issued to the 1st petitioner and his wife.

W.P.No.11852 of 2016

V.P.Pandurangan

... Petitioner

vs.

The Revenue Divisional Officer,
Tiruttani,
Tiruvallur District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the rejection order of the respondent in proceedings in Na.Ka.787/2014/A3 dated 14.01.2016 quash the same and direct the respondent to issue community certificate to the petitioner's son V.P.Umapathy and his grandsons D.Yokesh and D.Sivakumar based upon the community certificate obtained by the petitioner and his family members.

For Petitioners : Mr.S.Doraisamy
(in both the WPs)

For Respondent : Mr.A.Kumar
(in both the WPs) Special Government Pleader

COMMON ORDER

(Order of the Court was delivered by M.V.MURALIDARAN,J.)

The case of the petitioners is that the petitioners belong to "Kondareddis" community. On 25.01.1979, the 1st petitioner obtained community certificate from the Tahsildar, Tiruttani as "Kondareddis" (ST) community and on 17.07.1982, the Tahsildar of Pallipet issued community certificate to the wife of the 1st petitioner as "Kondareddis" (ST). The 1st petitioner was working in the Postal Department and in his service register also his community certificate was entered as "Kondareddis" (ST) community.

2.The 1st petitioner's community certificate was verified by the District Collector, Chengalpet and found to be genuine. While the facts are being so, the 1st petitioner applied for the issuance of community certificate to his daughter and son, the petitioners 2 and 3 herein to the respondent herein on 26.10.2012 along with 36 documents to prove that they belong to "Kondareddis" (ST) community. On receipt of the said application, on 31.10.1982, the respondent herein has forwarded the same to the Tahsildar, Tiruttani to conduct an enquiry and to submit a report.

3.The further case of the petitioners is that since the respondent has not passed any order, the petitioner filed W.P.No.28140 of 2014 before this Court seeking for a direction and this Court by order dated 28.10.2014 directed the respondent to dispose of the application submitted by the petitioner herein after conducting an enquiry. Based on the above said direction issued by this Court, the respondent herein by order dated 21.01.2015 rejected the claim of the petitioners without relying

upon the documents filed by the petitioners on the ground that the petitioners belongs to Kondhalareddy, which is a forwarded community and not "Kondareddis" (ST) community. By challenging the same, the petitioners filed W.P.No.6512 of 2015 and this Court by order dated 12.10.2015 directed the respondent herein to reconsider the claim of the petitioners as per the ratio laid down by this Court in W.P.No.24816 of 2015 in the case of Lakshminarayanan v. The Chairman, State Level Scrutiny Committee dated 30.09.2015. But, the respondent herein without following the ratio laid down in the above said order, by order dated 14.01.2016 refused to issue community certificate to the petitioners 2 and 3 herein and forwarded the claim of the petitioners to the State Level Scrutiny Committee for taking final decision on the issue whether the caste of Kondhalakulam and Kondareddis are one and the same or not? The said order is impugned in this writ petition.

4.The respondent herein filed counter affidavit and contended that as per the letter of Ministry of Welfare, New Delhi in letter No.12018/1985 SCD (R.cell) dated 20.04.1987, issued to the Assistant Secretary, Social Welfare Department, Chennai-9 stating that Kondhalakulam and Kondareddy, both are two different communities, therefore, the people belongs to Kondhalakulam community cannot make an application to issue Kondareddy community certificate. The respondent further contended that as per the enquiry conducted in the village of the petitioners, the public in the area of Big Street, Tiruttani have given statement, stating that in their area, no Kondareddy community people are residing, only Kondalareddy community people alone are residing. Therefore, the respondent has referred the case of the petitioners to the State Level Scrutiny Committee and the petitioner is at liberty to represent before the said committee with all his legal points and documents. Therefore, the respondent contended that the present writ petition is devoid of merits and they prayed to dismiss the same.

5.We have heard the learned counsel appearing for the petitioners and the learned Special Government Pleader appearing for the respondent. We have also carefully considered the rival submissions on either side and perused the entire materials available on record.

6.A perusal of the impugned order discloses that as per the direction of the Hon'ble Division bench of this Court in W.P.No.6512 of 2015, the respondent herein issued enquiry notice to the petitioners herein on 19.12.2015 to appear before them. The 1st petitioner appeared before the respondent and submitted his written explanation. The respondent also enquired into the public of Tiruttani, Big Street and obtained their statement. From the statement of public living at Big Street, the

petitioners herein belong to Kondalareddy community and no one is living in the year, belongs to "Kondareddy" community including the petitioners. The respondent herein after examining the case of the petitioner and also after considering the enquiry with village people of the petitioners, has come to the conclusion that the matter in question has to be examined by the State Level Scrutiny Committee, since the 1st petitioner's community certificate was issued in the year 1979 and in the village, 'Kondhalakulam' community people alone are residing and no one 'Kondareddy' community people are living. According to the petitioners, Kondhalakulam and Kondareddy are one and the same. Further, the issue relating to the issuance of community certificate is pending with the State Level Scrutiny Committee and the petitioners are at liberty to appear before the Committee and to produce the relevant documents in support of his community as 'Kondareddy'.

7. We have also gone through the orders passed by the learned Single Judge, relied upon by the petitioners in the writ petitions and writ appeals. In W.P.No.12575 of 1994, the learned Judge held that since the entire records have been destroyed and the respondent is not able to produce any records and therefore, the community certificate issued to the petitioner on 25.01.1979 held to be valid certificate. However, the learned Judge made it clear that this should not be a precedent in future cases. In other writ petition No.28140 of 2014 and writ petition No.6512 of 2015 also, this Court directed the respondent herein to consider the case of the petitioners afresh. Therefore, the petitioners herein cannot take shelter of those orders for taking grant that as if this Court directed the respondent herein to issue community certificate to the petitioners as "Kondareddis".

8. Even in Kumari Madhuri Patil v. Additional Commissioner, Tribal Development and others reported in 1994 (6) SCC 241, the Hon'ble Apex Court has held that the community certificate issued by District Revenue Officer, prior to 1989 should not be disturbed. However, in case of any dispute regarding the community certificate, the matter has to be referred to the State Level Scrutiny Committee.

9. In view of the above, we do not find any infirmity in the impugned order. We are not inclined to interfere with the same. However, considering the fact that the issue is pending for quite long time, we are inclined to direct the State Level Scrutiny Committee to decide the issue in question as to whether Kondhalakulam and Kondareddy community are one and the same, after affording an opportunity to the petitioners herein and dispose of the same within a period of eight weeks from the date of receipt of a copy of this order. The registry is directed to mark a copy of this order to the State Level Scrutiny Committee.

10. In the result, both the writ petitions are disposed of.
No costs.

-s/d-
Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

To

1. The Revenue Divisional Officer,
Tiruttani,
Tiruvallur District-631 209.
2. The State Level Scruting Committee
Adi Dravidar Welfare Department
Fort. St. George
Chennai 9

+2 Ccs to Mr. S. Doraisamy, Advocate sr 15435, 15454

+1 CC to Govt. Pleader sr 15494

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KGK (CO)
sp/27/3

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