



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 05.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD)Nos.15508 and 15509 of 2015

WEB COPY

K.Kalimuthu : Petitioner in W.P. (MD)No.15508/2015
V.Esakkiappan : Petitioner in W.P. (MD)No.15509/2015

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary,
Adi Dravidar Tribal Welfare Department,
Fort St. George,
Chennai.

2.The District Collector,
Thoothukudi.

3.The Revenue Divisional Officer/
Sub Collector,
Thoothukudi. : Respondents in both W.Ps.

PRAYER in W.P.(MD)No.15508/2015 : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the third respondent in his proceedings in Roc.No.A2/4343/2014, dated 23.06.2015, quash the same and consequently, direct the third respondent to issue the Hindu Kattunayakkan (Scheduled Tribe) Community Certificate to the petitioner's two daughters namely 1.K.Kasthuri, 2.K.Mahalakshmi.

PRAYER in W.P.(MD)No.15509/2015: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the third respondent in his proceedings in Roc.No.A2/5364/2015, dated 29.06.2015, quash the same and consequently, direct the third respondent to issue the Hindu Kattunayakkan Community Certificate (Scheduled Tribe) to the petitioner's two sons and one daughter namely 1.E.Sathish Kumar, 2.E.Ramesh, 3.E.Kavitha.

For Petitioners in both WPs : Mr.V.Palanichamy
For Respondents in both WPs : Mr.S.Chandrasekar,
Government Advocate



C O M M O N O R D E R

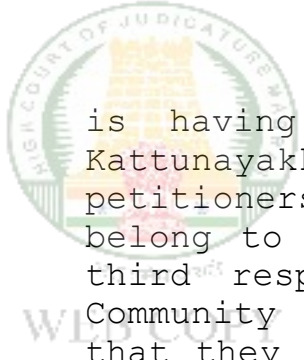
[Order of the Court was made by **R.SUBBIAH, J.**]

The present Writ Petitions have been filed to quash the impugned orders passed by the third respondent in his proceedings in Roc.No.A2/4343/2014, dated 23.06.2015 and Roc.No.A2/5364/2015, dated 29.06.2015, respectively and consequently, direct the third respondent to issue Hindu Kattunayakkan Community Certificate (Scheduled Tribe) to the respective petitioner's sons and daughters.

2. The case of the petitioner in W.P.(MD)No.15508 of 2015 is that the petitioner belongs to Hindu Kattunayakkan Community, which is recognized as Scheduled Tribe. The petitioner is having Community Certificate vide No.3864/86, dated 22.09.1986, stating that he belongs to Hindu Kattunayakkan Community, which is a Scheduled Tribe Community. The third respondent has also issued a housing patta in favour of the petitioner in the year 1966, which shows that the petitioner is residing permanently at Thoothukudi District. However, without considering the same, the third respondent, by impugned order dated 23.06.2015, rejected the request of the petitioner on the ground that the petitioner should apply for the Community Certificate in the place of permanent abode of the parents and ancestors, so that, the concerned Revenue Divisional Officers is in a position to enquire with all relatives to decide the genuineness of the Scheduled Tribe status claimed by the petitioner. Challenging the same, the petitioner is before this Court with the present Writ Petition.

3. The case of the petitioner in W.P.(MD)No.15509 of 2015 is that he belongs to Hindu Kattunayakkan Community and he made an application to the third respondent seeking Community Certificate to his children, on 20.08.2014. On receipt of the application, report was called for from the concerned revenue officials. In support of the claim of the petitioner, he is also having Community Certificate issued by the Tahsildar dated 30.09.1978, and in his school records as well as service records, it is mentioned that he belongs to Scheduled Tribe. However, without considering the same, the third respondent rejected the request of the petitioner, by way of impugned proceedings. The order dated 29.06.2015 is under challenge in this Writ Petition.

4. The learned counsel for the petitioners submits that the petitioner in W.P.(MD)No.15508 of 2015 was issued with a Certificate that he belongs to Hindu Kattunayakkan Community (Scheduled Tribe) by the Tahsildar, Sankarankovil in the year 1986 and is valid for all purposes. Similarly, the petitioner in W.P.(MD)No.15509 of 2015 was also issued with a Community Certificate by the Tahsildar, Agasteeswaram, in the year 1978 and



is having other records to prove that he belongs to Hindu Kattunayakkan Community. Furthermore, the relatives of the petitioners are having Community Certificate stating that they belong to Hindu Kattunayakkan Community. When that being so, the third respondent ought not to have rejected the issuance of Community Certificate to the petitioners' children on the ground that they have to obtain certificate from their respective native place.

5. Adding further, the learned counsel submits that the issue involved in these Writ Petitions is squarely covered by the judgment of a Division Bench of this Court in the case of **C.V.Kalaivanan v. The Sub Collector, Mettur Dam** reported in **2010 (3) CTC 673**, wherein, it has been held that if parents and brother were issued with Community Certificates, the children of that person cannot be denied Community Certificate on any ground, unless and until the Community Certificate issued to the parent/relative is cancelled.

6. The dictum laid down in the above said judgment is squarely applicable to the case on hand. Even, in this case, the Community Certificates issued to the petitioners by the Tahsildar concerned on 22.09.1986 and 30.09.1978 stating that they belong to Hindu Kattunayakkan Community, which is recognized as Scheduled Tribe, were not cancelled so far. Therefore, we are of the view that since the primary documents, viz., Community Certificates issued in favour of the petitioners are still in force, the impugned orders passed by the third respondent rejecting the claim of the petitioners to issue Community Certificate to their children as they belong to Hindu Kattunayakkan Community, which is recognized as Scheduled Tribe, cannot be sustained and the same is liable to be set aside.

7. In the result, the impugned orders are set aside and the third respondent is directed to issue Community Certificate to the petitioners' children respectively, within a period of four weeks from the date of receipt of a copy of this order.

8. The Writ Petitions stand allowed as indicated above. No costs.

Sd/-
Assistant Registrar[RTI]

/True copy/

Sub Assistant Registrar



To

1.The Secretary,
The Government of Tamil Nadu,
Adi Dravidar Tribal Welfare Department,
Fort St. George,
Chennai.

2.The District Collector,
Thoothukudi.

3.The Revenue Divisional Officer
Sub Collector,
Thoothukudi.

+2ccs to Mr.V.Palanichamy,Advocate, (SR.Nos.938,937)

+2ccs to the Special Government pleader(SR.Nos.1303&1304)

SML

KK-JM-06.02.17-4P-8C

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