



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2017

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE P.VELMURUGAN**

W.P.[MD].No.20310 of 2015

S.Manthirammoorthy

... Petitioner

Vs.

1. The District Collector /
Chairman of The District Community Verification
and Monitoring Committee,
Tirunelveli District.

2. The Revenue Divisional Officer,
Tirunelveli.

3. The Tahsildar,
Tirunelveli Taluk,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the order of the third respondent in Na.Ka.Aa2/4375/2015, dated 22.05.2015 and quash the same and further direct the first respondent to issue fresh community certificate to the petitioner and community certificate to minor children (Minor Ramalingam, Minor Sankari, Minor Mariammal) of the Petitioner as "Hindu Valluvan" by considering the representation of the petitioner, dated 04.06.2015.

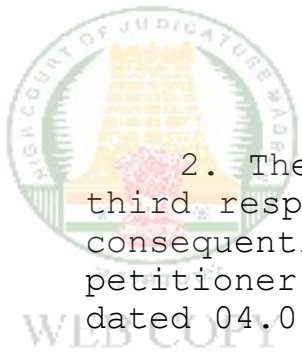
For Petitioner : Mr.M.Vallinayagam,
Senior counsel for
Mr.D.Nallathambi

For Respondents : Mr.S.Chandra Sekar
Government Advocate

O R D E R

[Order of the Court was made by T.S.SIVAGNANAM, J.]

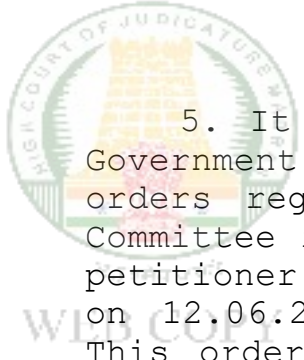
Heard Mr.M.Vallinayagam, learned Senior counsel appearing for the petitioner and Mr.S.Chandra Sekar, learned Government Advocate appearing for respondents.



2. The petitioner seeks to challenge the order passed by the third respondent in Na.Ka.Aa2/4375/2015, dated 22.05.2015 and for consequential direction to issue community certificate to the petitioner as "Hindu Valluvan" by considering his representation, dated 04.06.2015.

3. The petitioner's case is that his father, who was working as a Process Server in the Principal District Court, Tirunelveli, died in harness in the year 1994 and the petitioner was appointed as Senior Bailiff on compassionate ground in the same year. At present, the petitioner is working as a Record Keeper in the Principal District Court, Tirunelveli. The petitioner's further case is that at the time when the petitioner was admitted to the School, his father had given the petitioner's caste as "Pandaram" and the Thasildar had given a community certificate as "Hindu Andi Pandaram". The petitioner would state that he belongs to "Valluvan Community" and the sub-caste is "Pandaram" and it is a Scheduled Caste community. Therefore, the Petitioner made a representation and a report was submitted by the Thasildar, on 29.03.2014, which confirms that the petitioner belongs to "Hindu Pandaram". But however, a stand was taken that certificate cannot be issued as "Hindu Valluvan". Subsequent representations were made. However, the same was not placed before the first respondent/competent authority to decide the communal status of the petitioner, instead once again the matter was dealt with by the third respondent and the impugned order has been passed.

4. The learned Senior counsel appearing for the petitioner referred to the booklet published by the then Government of Madras in the year 1961 for guidance of Enumerators who have to elicit information during the houselisting operations as well as actual enumeration, whether the occupants of households or persons enumerated belong to the Scheduled Castes or Scheduled Tribes. By referring to the said booklet, it is submitted that "Valluvan" is the Scheduled Caste community and the *State - cont. provides for synonyms prevalent in the State for the said community.* Therefore, the petitioner claims that he is entitled to be granted a community certificate as "Hindu Valluvan". In this writ petition, the first question to be decided is whether the order passed by the third respondent is just and proper and whether the third respondent has jurisdiction to pass the impugned order. Admittedly, the competent authority to declare the communal status of a person, who claims himself to be a Member of the Scheduled Caste, is the District Level Committee constituted by the Government with District Collector as the Chairman. In this Writ Petition, the said Committee has been impleaded as a first respondent. Therefore, it is only the said Committee which can take a decision in the matter by following the procedure stipulated in various Government Orders.



5. It is brought to the notice of this Court by the learned Government Advocate that recently, the Government has passed orders regulating the procedure to be followed by the District Committee in G.O.Ms.No.235. Further, in the instant case, when the petitioner approached the District Collector, an order was passed on 12.06.2014, directing the petitioner to approach the Court. This order was challenged by the Petitioner in W.P.(MD).No.20893 of 2014 and the Division Bench, by order dated 04.03.2015, directed the District Collector to pass orders on the petitioner's representation, dated 18.08.2014, after conducting enquiry. Further, we see that once again, the Thasildar has passed the impugned order and the direction issued in the earlier Writ Petition has not been complied with.

6. Be that as it may, the competent authority to decide the communal status of the petitioner will be the first respondent. Therefore, we are inclined to direct the first respondent to do so. Accordingly, the Writ Petition is allowed and the impugned order is set aside and the matter is remitted back for fresh consideration to the first respondent, who shall consider the petitioner's representation seeking Community Certificate as "Hindu Valluvan" and conduct enquiry in terms of the direction issued by the Government of Tamil Nadu in the G.O., referred above, after affording an opportunity of hearing, take an independent decision without being influenced by the observations made in the impugned order. It is open to the petitioner to produce all the materials including the booklet issued by the Government in the year 1961, in support of his case, during the time of personal hearing.

7. The above said direction shall be complied with within three months from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector /
Chairman of The District Community Verification
and Monitoring Committee,
Tirunelveli District.

2. The Revenue Divisional Officer,

Tirunelveli



3. The Tahsildar,
Tirunelveli Taluk,
Tirunelveli District.

+ 1 CC TO Mr.D.NALLATHAMBI, ADVOCATE IN SR No. 51601

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 51736

AKV/DSK

TE/SV : 05/05/2017 : 4P/6C

W.P.[MD].No.20310 of 2015
11.04.2017