



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 23.12.2016

Delivered on : 10.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.[MD].No.2607 of 2014

and

M.P.(MD)No.2 of 2014

Dr.Paul Devanesan

: Petitioner

Vs.

The Thasildar,
Karaikudi,
Sivagangai District.

: Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the proceedings of the respondent in its Na.Ka.A2-5036-2013, dated 25.09.2013 and quash the same and consequently, direct the respondent to issue Community Certificate to the petitioner daughter Nesa Nilavu and son Nesa Kumar to the effect that they belong to Hindu Adi Dravida Community (Scheduled Caste).

For Petitioner

: Mr.V.Karthikeyan,
For Mr.V.Vijay Shankar

For Respondent

: Mr.S.Chandrasekar,
Government Advocate

O R D E R

R.SUBBIAH, J.

The petitioner has filed the present Writ Petition seeking to quash the proceedings of the respondent in Na.Ka.A2-5036-2013, dated 25.09.2013, whereby and whereunder, the request of the petitioner to issue Scheduled Caste Community Certificate to his daughter Nesa Nilavu and son Nesa Kumar, was rejected.

2. It is the case of the petitioner that he belongs to Adi Dravidar Community, which is classified as Scheduled Caste. The petitioner's grandfather and mother's ancestors belonged to Hindu Adi Dravida Community and they were professing Hinduism only. However, the parents of the petitioner were professing both Christianity and Hinduism. Only on account of this, the petitioner was named Paul Devanesan. However, the petitioner's family used to observe all Hindu festivals. On account of his

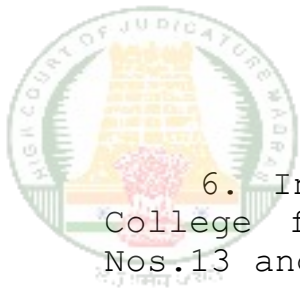


inherent liking towards Hinduism, his brothers and sisters including himself got converted to Hinduism. It was done by observing all religious formalities in the year 1989. Subsequently, he has been re-admitted to the Hindu religion and has been treated as belonging to the Hindu religion. Thereafter, the petitioner obtained a Community Certificate from the Tahsildar, Sankari Taluk, Salem, describing him as belonging to the Adi Dravida Community which is a Scheduled Caste, on 13.11.1990. The said Certificate remains valid and subsisting and it has not been cancelled so far.

3. While so, in the year 2009, the petitioner applied for Community Certificate for his daughter Nesa Nilavu and son Nesa Kumar. Though he hails from Salem District, for the purpose of employment, he is in Karaikudi for the past more than 20 years. Therefore, the petitioner applied to the respondent for issuance of Community Certificate for his daughter and son. Though the respondent was convinced that the petitioner and his family belong to Adi Dravida Community, in view of the names of the petitioner and his son and daughter, which resembles the name of Christian, the respondent issued a Community Certificate on 30.04.2008, certifying the petitioner's daughter and son as belonging to the Christian Adi Dravida Community, which is classified as Backward Class. Though the petitioner pointed out that he had been converted to Hinduism and possessed a valid Community Certificate describing him as Hindu Adi Dravida Community, the respondent replied that though the petitioner's children were Adi Dravidas, since their names resemble Christian names, they would be treated as Christian and they would not be entitled to get Community Certificate showing them as Scheduled Caste. Thus, the impugned order was passed rejecting the request of the petitioner. Challenging the same, the petitioner is before this Court with the present Writ Petition.

4. When the matter was taken up for consideration, the learned counsel for the petitioner submitted that the matter is covered by the judgments delivered by this Court in various cases. In this regard, the learned counsel placed number of judgments for our consideration. It is seen that though the matter is pending from 2014 onwards, the respondent has not chosen to file counter in this matter.

5. 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, 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. In C.Clara v. The Principal, Govt Quai-De-Milleth Arts College for Women reported in 2009(3) CTC 662, at paragraph Nos.13 and 14, this Court observed thus:

"13. The Government of Tamil Nadu also, by G.O.Ms.No.1 Adi Dravidar and Tribal Welfare (CV-1) Department, dated 2.1.2009, ordered to treat the persons converted from Christian Scheduled Caste to Hinduism as Hindu Scheduled Caste with all constitutional privileges. The operative portion of the said Government Order reads as follows:

"The children born to Christian Schedule Caste parents i.e., Christian by birth, converted to Hinduism, Sikhism or Buddhism at a later date and the Scheduled Caste parents embracing Hinduism, Sikhism and Buddhism converted to other religion and subsequently reconverted Hinduism, Sikhism or Buddhism, if they are accepted by their community people, the Revenue Authorities can issue Scheduled Caste Community Certificate to them to become eligible for the constitutional privileges conformed on the Hindu Scheduled Caste (following Hinduism, Sikhism or Buddhism) and order accordingly."

14. Applying the above case laws and the undisputed fact of conversion of petitioner to Hinduism and marrying K.Govindaraj, who belongs to Hindu Adi Dravidar as per the Hindu rites and accepting the petitioner as a Hindu Adi Dravida by the Society and having regard to the fact that the petitioner has given a Community Certificate on 23.3.1999, the petitioner is to be treated as she belongs to Hindu Adi Dravida Community. It is also a fact that the genuineness of the Community Certificate issued to the petitioner by the competent authority dated 23.3.1999 is not doubted and no enquiry is ordered to verify its genuineness. It is well settled proposition of law that once a valid Community Certificate is issued by the competent authority, unless and until the same is set aside, the same is bound to be accepted as valid Community Certificate by all as per the decision of the Supreme Court in R.Kandasamy v. Chief Engineer, Madras Port Trust, 1997(3) CTC 36 (SC) : 1997(7) SCC 505. Hence the termination order passed by the respondents cannot be sustained."

7. The above said judgments are squarely applicable to the case on hand. Even, in this case, the Community Certificate issued to the petitioner on 13.11.1990 as he belongs to Adi Dravida Community, which is recognized as Scheduled Caste



Community, by the Tahsildar, Sankari, was not cancelled so far. Therefore, we are of the view that since the primary document, viz., Community Certificate issued in favour of the petitioner is still in force, the impugned order passed by the respondent rejecting the claim of the petitioner to issue Community Certificate to his children as they belong to Hindu Adi Dravida Community, which is recognized as Scheduled Caste, cannot be sustained and the same is liable to be set aside.

8. In the result, the impugned order dated 25.09.2013, is set aside and the respondent is directed to issue Community Certificate to the petitioner's daughter, namely Nesa Nilavu and his son Nesa Kumar, within a period of four weeks from the date of receipt of a copy of this order.

9. The Writ Petition stands allowed as indicated above. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS II)

/True Copy/

Sub Assistant Registrar

To
The Thasildar,
Karaikudi,
Sivagangai District.

+1cc to Mr.V.Karthikeyan, Advocate in SR No.1889

Order made in
W.P.[MD].No.2607 of 2014

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