



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.[MD].No.12648 of 2017

S.Paramasivam

: Petitioner

Vs.

The Revenue Divisional Officer,
Musiri,
Trichy District.

: Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to issue the Kattunayakkan Community Certificate in favour of the petitioner and as well as for his son, namely Praveen Kumar and his daughter namely Soundarya, within a period stipulated by this Court, by considering the petitioner's representation dated 22.08.2016.

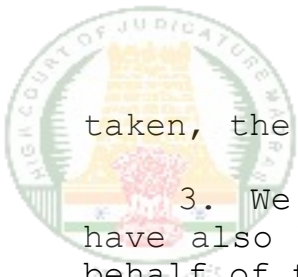
For Petitioner : Mr.K.Sivabalan
For Respondent : Mr.M.Govindan,
Special Government Pleader

O R D E R

[Order of the Court was made by K.K.SASIDHARAN, J.]

The petitioner filed this Writ Petition to direct the Revenue Divisional Officer, Musiri, to issue Community Certificate to him as well as to his children, by name Praveen Kumar and Soundarya, by considering the representation dated 22 August, 2016.

2. The brother of the petitioner earlier made a claim for issuance of a Community Certificate to him. The order passed by the District Collector, Trichy, declining to issue Community Certificate to his brother, was challenged in a civil suit in O.S.No.1653 of 1994. The civil suit was decreed by the Civil Court. Based on the Civil Court decree, the brother of the petitioner, by name Sekar obtained the Community Certificate. The petitioner, on the strength of the Community Certificate issued to his brother, requested the Revenue Divisional Officer, Musiri, to issue Community Certificate to him as well as to his children. Since follow-up action was not



taken, the petitioner is before this Court.

3. We have heard the learned counsel for the petitioner. We have also heard the learned Special Government Pleader appearing on behalf of the respondent.

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4. The petitioner is claiming that he belongs to Kattunayakkan Community, which is notified as a Scheduled Tribe. The claim made by the brother of the petitioner that he belongs to Kattunayakkan Community was rejected by the District Collector, Trichy. The order was challenged by the brother of the petitioner before the Civil Court in O.S.No.1653 of 1994. The Civil Court appears to have decreed the suit.

5. The petitioner is placing reliance on the Civil Court decree and the related Certificate issued to his brother for the purpose of issuing Community Certificate to him and to his children. The Civil Court decree in O.S.No.1653 of 1994 is not binding on the respondent.

6. The procedure for issuance of the Community Certificate was indicated by the Hon'ble Supreme Court in **Kumari Madhuri Patil v. Addl. Commissioner [1994(6) SCC 241]**. The Hon'ble Supreme Court indicated that the application for grant of Social Status Certificate shall be made to the Revenue Sub-Divisional Officer and the Certificate shall be issued by such Officer. There was a further requirement to file an affidavit duly sworn and attested by a competent Gazetted Officer, indicating the details of the Tribal Community, the place from which the applicant originally hails from and other particulars as may be prescribed by the Directorate concerned. The Supreme Court made it very clear that the Civil Court has no jurisdiction to entertain a matter in respect of the issuance of Community Certificates to the Scheduled Castes and Scheduled Tribes.

7. The brother of the petitioner appears to have obtained a Community Certificate, pursuant to the decree in O.S.No.1653 of 1994. The decree was given, notwithstanding the Law laid down by the Supreme Court in **Kumari Madhuri Patil's** case cited *supra*. No reliance could be placed on the said decree or the Certificate obtained on the basis of the decree by the brother of the petitioner to claim Community status as Scheduled Tribe. The application submitted by the petitioner should be considered independently without any reference to the Certificate obtained by his brother on the strength of the Civil Court decree in O.S.No.1653 of 1994.

8. We, therefore, direct the Revenue Divisional Officer, Musiri, Trichy District, to consider and dispose of the application submitted by the petitioner for issuance of Community Certificates to him as well as to his children, purely on merits and as per law and without reference to the Certificate issued to his brother on the strength of the Civil Court decree in O.S.No.1653 of 1994. Such



exercise shall be completed, within a period of three months from the date of receipt of a copy of this order.

9. The Writ Petition is disposed of with the above direction.
No costs.

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Sd/-
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

The Revenue Divisional Officer,
Musiri,
Trichy District.

+ 1 CC TO Mr.K.SIVABALAN, ADVOCATE IN SR No. 64054
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 64464

SML

TE/JC/SAR-I : 28/07/2017 : 3P/4C

Order made in
W.P.[MD].No.12648 of 2017
Dated: 07.07.2017