



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.[MD].No.13544 of 2016
and
W.M.P.(MD)Nos.10104, 10105 and 16346 of 2016

A.Selvi : Petitioner

Vs.

- 1.The Tahsildar,
Kakulam Taluk, Thuckalay, Thuckalay Post,
Kanyakumari District.
 - 2.The Principal,
Stella Mary's College of Engineering Aruthengavillai,
Azhilkal Post, Kanyakumari District.
 - 3.The Registrar,
Anna University,
Chennai.
- : Respondents

R-2 and R-3 impleaded vide order dated 01.08.2016 made in W.M.P.
(MD).No.10198 of 2016].

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 impugned order passed by the respondent in letter memo A2/3019/2016, dated 30.05.2016, quash the same and direct the respondent to issue community certificate to the petitioner's son and daughter, by name, R.Ajith Kumar and R.Ashmin Rajith respectively, as Hindu Sambavar, a Schedule Caste Community.

For Petitioner : Mr.K.Sathiya Singh

For Respondent No.1 : Mr.S.Chandrasekar
Government Advocate

For Respondent No.2 : Mr.N.S.Karthikeyan

For Respondent No.3 : Mr.M.Rajarajan



O R D E R

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

This Writ Petition has been filed challenging the impugned letter memo A2/3019/2016, dated 30.05.2016 and for a direction to the respondents to issue community certificate to the petitioner's son and daughter, by name, R.Ajith Kumar and R.Ashmin Rajith respectively, as Hindu Sambavar, a Schedule Caste Community.

2. The case of the petitioner is that she belongs to Hindu Sambavar, which is a Schedule Caste Community. Her husband died 17 years ago, in an accident, leaving behind her and two children. The petitioner applied for community certificate before the first respondent through e-service. Based on the discreet enquiry, the first respondent rejected the claim of the petitioner, by the impugned order, stating that the petitioner has been professing Christianity. Aggrieved over the same, the present Writ Petition has been filed.

3. The main submission of the learned counsel for the petitioner is that without conducting proper enquiry, the first respondent has come to the conclusion that the petitioner has been professing Christianity. The learned counsel for the petitioner, in support of his contention, made reliance on the community certificates issued to the petitioner's paternal uncle, dated 21.12.1987, her cousin brother, dated 25.10.1991 and also the community certificate issued to her dated 28.07.1994. The learned counsel for the petitioner further submitted that the said certificates issued to the petitioner and her relatives were not cancelled till date and thus, her children are also entitled for community certificates certifying that they belong to Hindu Sambavar Community.

4. We have heard the learned counsel for the respondents and we have also perused the records carefully.

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 such 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
Adi Dravidar and Tribal Welfare (CV-1)
Department, dated 2.1.2009, ordered to treat the

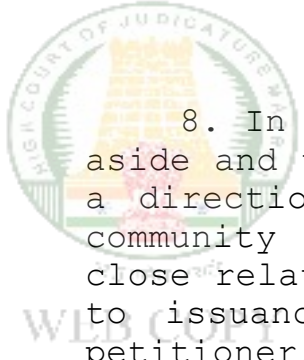


persons converted from Christian Scheduled Caste to Hinduism as Hindu Scheduled Caste with all constitutional privileges. The operative portion of the said Government Order reads as follows:

"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 was given a Community Certificate on 23.3.1999, the petitioner is to be treated that 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 a 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 28.07.1994, certifying that she belongs to Hindu Sambavar Community, which is recognized as Schedule Caste Community, by the Tahsildar concerned was not cancelled so far. Therefore, we are of the considered 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 first respondent, cannot be sustained and the same is liable to be



8. In the result, the impugned order, dated 30.05.2016, is set aside and the matter is remitted back to the first respondent with a direction to conduct proper enquiry, taking into account the community certificates already issued to the petitioner and her close relatives and pass appropriate orders, on merits with regard to issuance of community certificates to the children of the petitioner, viz., R.Ajith Kumar and R.Ashmin Rajith respectively, as Hindu Sambavar Community, within a period of six weeks from the date of receipt of a copy of this order.

9. The Writ Petition is allowed to the extent indicated above. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(c)

/True copy/

Sub Assistant Registrar

To
The Tahsildar,
Kakulam Taluk, Thuckalay, Thuckalay Post,
Kanyakumari District.

+1cc to Mr.K.Sathiyasingh, Advocate SR.NO.3617
+1cc to Mr.M.Rajarajan, Advocate SR.No.3703
+1cc to special Government Pleader sR.No.3774

NB
sm:BS:09/02/2017:4P/5C

ORDER MADE IN
W.P.[MD].No.13544 of 2016
23.01.2017