

In the High Court of Judicature at Madras

Dated : 26.04.2018

Coram

The Honourable Mr.Justice R.SUBBIAH
and
The Hon'ble Mr.Justice P.D.AUDIKESAVALU

W.P.No.5466 of 2018
and
WMP.Nos.6750 and 6751 of 2018

G.Rajendran ... Petitioner

Vs.

1. The Revenue Divisional Officer,
Dharmapuri
Dharmapuri District.

2. The Chairman/ Secretary to Government,
Adi-Dravidar Welfare Department, State Level Scrutiny Committee,
3rd Floor, Namakkal Kavnagar Maligai,
Secretariat, Chennai-600 009. ... Respondents

(R2 -suo-motu impleaded as party respondent
as per the order of this Court dated 26.04.2018)

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus to call for the records of the respondent relating to his order in Pro.Pa.Mu.No.936/2017/A4 dated 04.12.2017, quash the same and issue consequential directions to the respondent to issue community certificates in favour of his daughter and son viz., K.R.Sharmila and N.Santhoshkumar, certifying that they belong to Kurumans Community, which is classified as Scheduled Tribe Community.

For Petitioner : Mr.D.Baskar

For Respondents : Mr.S.Suresh Kumar, GA

ORDER

This writ petition has been filed to quash the order dated 04.12.2017 passed by the first respondent, with consequential prayer to direct the first respondent to issue community

certificate to the petitioner's daughter and son viz., K.R.Sharmila and N.Santhoshkumar stating that they belong to "Kurumans" (Scheduled Tribe) Community.

2.The scheme of the case is as under:

2.1 The petitioner belongs to "Kurumans" Community, which is classified as a Scheduled Tribe Community. He made an application to the first respondent on 05.9.2007 requesting to issue community certificate to his daughter and son. On receipt of the said application, the first respondent forwarded the same to the Tahsildar, Nallampalli to verify the community status of the petitioner and file a report.

2.2 Since no action was taken on the said application, the wife of the petitioner made a representation dated 01.02.2008, due to which, she was called upon to produce the relevant documents before the first respondent for enquiry. Accordingly, the petitioner and his wife attended the enquiry and submitted the relevant documents to the effect that they belong to "Kurumans" (ST) Community.

2.3 In spite of the production of the required documents, no order has been passed by the first respondent. Hence, the petitioner filed WP.No.40929 of 2016, which, by order dated 22.11.2016, was disposed of, directing him to submit a fresh application along with the required documents to the first respondent within a period of one month and thereafter, the first respondent shall consider the same by making proper verification and do the needful with regard to the issuance of community certificate to the children of the petitioner, within a period of three months.

2.4 Pursuant to the aforesaid order, the petitioner submitted a representation dated 21.01.2017 to the first respondent, who in turn, directed the petitioner to appear for enquiry on 17.07.2017, on which date, he attended the enquiry and produced all the required documents to support his claim. Even thereafter, there was no response on the part of the first respondent.

2.5 Hence, the petitioner initiated contempt proceedings by filing Contempt Petition No.2264 of 2017 against the first respondent. During the pendency of the same, the first respondent passed an order dated 4.12.2017, forwarding the application of the petitioner seeking community certificate to his children, to the State Level Scrutiny Committee to verify the community status of the petitioner and staying the further proceedings on the petitioner's application, till the report is received from the said Committee.

2.6 Challenging the order so passed by the first respondent, the petitioner has come up with the present writ petition for the aforesaid relief.

3.The learned counsel for the petitioner submitted that the

petitioner applied for community certificate to his daughter and son, for which, he produced the community certificates issued by the competent authority in his favour and in favour of his sister showing them to be belonged to "Kurumans" (ST) Community, which are still in force and are not cancelled by the higher authority. However, the first respondent, without considering any of the documents produced by the petitioner, has raised a doubt about the community status of the petitioner and his family and consequently, forwarded the application of the petitioner to the State Level Scrutiny Committee for further verification. That apart, the further proceedings on the petitioner's application was stayed, till the report is received from the said Committee. The learned counsel further submitted that this Court in a number of cases, held that once the parents of the applicants were issued with community certificates, without any further verification, the children are also entitled to get the said community certificates and the authorities cannot doubt the certificate issued in favour of the parents by another competent authority, unless it is set aside or modified by the higher authority viz., the State Level Scrutiny Committee. Thus, according to the learned counsel, the order dated 4.12.2017 passed by the first respondent is illegal, arbitrary and unsustainable in law.

4. Denying the averments made in the writ petition, the first respondent filed a detailed counter affidavit. Reiterating the averments made in the counter affidavit, the learned Government Advocate submitted that as per the instructions issued by the Government, the first respondent conducted an enquiry and concluded that the petitioner and his family do not belong to "Kurumans" (ST) Community, but only belong to "Kurumba" (MBC) Community and accordingly, passed the order, which is impugned in this writ petition, forwarding the petitioner's application to the State Level Scrutiny Committee for verifying the community certificates of the petitioner and his sister. It was also informed to the petitioner that the further proceedings on his application was stayed, till the report is received from the Committee. The learned Government Advocate further submitted that during the older years, there is no entry in the school records as "Kurumans", but only as "Kurumba" and that, the first respondent, being a revenue authority, got adequate knowledge about "Kurumans" community people and after considering all the relevant documents, rightly passed such order, which does not call for any interference by this Court.

5. We have considered the submissions made by the learned counsel on either side and perused the materials placed before this Court.

6. The facts remain undisputed are that the petitioner has obtained a community certificate bearing No.2640708 dated

06.08.1995 from the Revenue Divisional Officer, Dharmapuri stating that he belongs to "Kurumans" Community, which is classified as a Scheduled Tribe Community. He made application to the first respondent, requesting to issue similar certificate to his children. Besides his community certificate, the petitioner produced the community certificate issued in favour of his sister N.G.Jayanthi S/o.Gajarajan, showing her to be belonged to the same "Kurumans" (ST) Community, to support his claim. However, the first Respondent passed the order dated 4.12.2017, referring the matter to the State Level Scrutiny Committee for further verification, on the ground that there was a controversy with regard to the community status of the petitioner and his family. That apart, till the receipt of the report, after due enquiry being made thereto, the further proceedings on his application was stayed. Feeling aggrieved, the petitioner is before this Court.

7. On a careful reading of the order impugned in this writ petition, it could be seen that after verifying the entry in the school record and birth/death registers of the close relatives of the petitioner, the first respondent arrived at a conclusion that there was a doubt with regard to the community status of the petitioner and his family as if they belong to "Kurumans" Community. According to the first respondent, they belong to "Kurumba" Community, which is classified as a Most Backward Class. In such view of the matter, the application of the petitioner was forwarded to the State Level Scrutiny Committee to verify the Community Certificates of the petitioner and his sister. The further proceedings on the petitioner's application was also stayed.

8. We have examined all the documents enclosed in the typed set of papers filed along with this writ petition. It is noticed that the community certificates were issued in favour of the petitioner and his sister by the competent officer. It is not the case of the first respondent that the said certificates have been found as sham and bogus by the higher authorities. In that event, the first respondent ought to have considered the claim of the petitioner seeking issuance of community certificate in favour of his children.

9. We are of the opinion that the children derive their social status from their parents and as such, if a certificate is granted to the parents, particularly, father, by a competent authority and the same is not doubted by any other competent authority or set aside or modified by the higher authority viz., the State Level Scrutiny Committee, the first respondent has no jurisdiction to take a contrary view on the basis of certain entries made in the School Register and other documents pertaining to the relatives of the petitioner.

10. At this juncture, it would be relevant to refer to the decision in *State of Bihar v. Sumit Anand* [(2005) 12 SCC 248], wherein, the Supreme Court upheld the order of the High Court directing the revenue authorities to issue community certificate to the children based on the certificates already issued to their father, grandfather, mother and maternal uncle. The Supreme Court observed as under:

"6. We have perused the findings recorded by the Division Bench as well as the Single Judge of the High Court. In view of the fact that the respondents father, grandfather, mother and maternal uncle had all been granted the certificate certifying that they belong to the Gond community, we see no reason to come to a conclusion other than the one arrived at by the High Court to the effect that the respondent was entitled to issuance of the caste certificate."

11. In such perspective of the matter, to sub-serve the interests of justice, this Court deems it fit to give appropriate direction to the first respondent to issue community certificate to the daughter and son of the petitioner on or before 18.06.2018 subject to the verification of the community certificate of the petitioner pending before the State Level Scrutiny Committee. For such purpose, the Chairman/ Secretary to Government, Adi-Dravidar Welfare Department, State Level Scrutiny Committee, 3rd Floor, Namakkal Kavignar Maligai, Secretariat, Chennai-600 009 is suo motu impleaded in this writ petition as the second respondent.

12. Further, the newly impleaded second respondent viz., State Level Scrutiny Committee is directed to verify the genuineness of the community certificates issued in favour of the petitioner as well as his son and daughter and pass orders on merits and in accordance with law, after providing an opportunity of personal hearing to the parties, within a period of three months from the date of receipt of a copy of this judgment.

13.The writ petition stands disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

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To

1.The Revenue Divisional Officer,
Dharmapuri
Dharmapuri District.

2. The Chairman/ Secretary to Government,
Adi-Dravidar Welfare Department, State Level Scrutiny Committee,
3rd Floor, Namakkal Kavignar Maligai,
Secretariat, Chennai-600 009.

+1 CC to Govt. Pleader sr 32263.

+1 CC to Mr.R. Thamarai Selvan, Advocate sr 31141.

W.P.No.5466 of 2018

SP(07/06/2018)

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