

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 14.02.2018

CORAM

THE HONOURABLE MR. JUSTICE R. SUBBIAH
AND
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No.2070 of 2018
and
W.M.P.No.2583 of 2018

L.Balakrishnan

..Petitioner

Vs.

The Sub Collector,
Tirupattur, Vellore District.

..Respondent

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records in the order dated 03.01.2018 passed by the respondent rejecting the application of the petitioner bearing No.2017/9005/04/904466/1030 dated 30.10.2017 and quash the same and direct the respondent to issue community certificate to the petitioner as asked for in the said application of the petitioner dated 30.10.2017.

For Petitioner : Mr.M.Radhakrishnan

For Respondent : Ms.Thangavadhana Balakrishnan, GA

ORDER

(Order of the Court was made by R. SUBBIAH, J.)

The present writ petition has been filed to quash the order dated 03.01.2018 passed by the respondent rejecting the petitioner's application bearing No.2017/9005/04/904466/1030 dated 30.10.2017 and to direct the respondent to issue community certificate to the petitioner as he belongs to Kurumans (Scheduled Tribe) community.

2. The case of the petitioner is that he belongs to kurumans, which is a Scheduled Tribe Community. Pursuant to the application submitted by the petitioner on 30.10.2017, for issuance of community certificate for him and his family

members, an enquiry with regard to the status of the community of the petitioner was conducted by the respondent. After completion of enquiry, by way of impugned order the respondent rejected the request of the petitioner for issuance of Kurumans community certificate. Challenging the same, the present writ petition has been filed.

3. When the matter is taken up for consideration, learned counsel for the petitioner has produced the proceedings of the Tamil Nadu State Level Scrutiny Committee dated 02.05.2007 and 30.08.2016, relating to one M.L.Gudiyannan, who is blood relative of the petitioner, wherein the Committee, after enquiry and careful examination of relevant documents, has declared him to be belonging to Kurumans Community. The learned counsel for the petitioner has also produced the Genealogy Certificate to show the said M.L.Gudiyannan as well as the petitioner are the descendants of one Belathgudiyannan. Further, the learned counsel for the petitioner has placed reliance upon the judgment dated 22.04.2016 of the Division Bench of this Court rendered in P. Govindarasu V. The Revenue Divisional Officer, Harur, Dharmapuri District (W.P. Nos. 17231, 17232, 17495 & 17496 of 2015), wherein, after referring to various judgments governing the issue in question, it was observed as follows:

"15. The competent authorities, without following the directions and the guidelines issued by this Court, rejecting the applications on erroneous consideration that the applicants belong to Kurumbar (MBC) community which is not notified under the Presidential Notification. Hence, in addition to the above guidelines, we would like to issue further directions as follows:

(i) The competent authority while issuing the community certificate, should consider the Schedule Tribe Community certificate issued in favour of the parents and close relatives of the applicants, subject to verification of the relationship and until the above certificates are cancelled by the higher authority namely, State Level Scrutiny Committee, the competent authority should accept the same and issue Schedule Tribe Community Certificate to the applicants.

(ii) The competent authority should not reject the application referring the name of Kurumbar (MBC) while deciding the claim for issuance of Kurumans (ST) community certificate as authorities are not entitled to refer the name of Kurumbar (MBC) for the purpose of deciding the issue of granting Kurumans (ST) Community Certificate."

Relying upon the aforesaid judgment, it is contended by the

learned counsel for the petitioner that when the community certificate issued to the blood relative of the petitioner has not been cancelled and rather, the State Level Scrutiny Committee itself has confirmed that blood relative of the petitioner, namely, M.L.Gudiyannan, belong to Kurumans community and when the said fact was also placed before the respondent, the impugned order rejecting the request of the petitioner is untenable. The learned counsel would further submit that the respondent has not dealt with the relationship between the petitioner and the said M.L.Gudiyannan. Therefore, for the above reason, the impugned order is liable to be set aside.

4. Per contra, the learned Government Advocate appearing for the respondent would submit that the impugned order has been passed by considering the various documents produced on the side of the petitioner and therefore, there is no need to set aside the same. According to the learned Government Advocate, if the petitioner is still aggrieved, it is always open to him to file an appeal before the State Level Scrutiny Committee challenging the order under challenge.

5. Heard the learned counsel for the parties.

6. On a perusal of the order under challenge, as rightly contended by the learned counsel for the petitioner, we find that the relationship between the petitioner and M.L.Gudiyannan, whom according to the petitioner is his blood relative, has not been discussed. Moreover, it is evident from the proceedings of the Tamil Nadu State Level Scrutiny Committee dated 02.05.2007 that the community certificate issued to the said M.L.Gudiyannan stating that he belongs to Kurumans community has been confirmed by the Committee, after due enquiry and verification of relevant documents. In such circumstances and in the light of the observations made by the Division Bench of this Court in the aforesaid judgment, we are of the considered view that it would be appropriate to remit the matter back to the respondent for fresh consideration and disposal.

7. Accordingly, the impugned order dated 16.06.2017 is set aside and the matter is remitted back to the respondent, who shall consider the application of the petitioner for issuance of community certificate to him and his family members afresh. The respondent shall examine the relationship between the petitioner and M.L.Gudiyannan, by affording an opportunity of hearing to the petitioner and on being satisfied with the blood relationship between the petitioner and the said M.L.Gudiyannan, shall pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order.

8. It is made clear that the above order has been passed

without expressing any opinion on the merits of the claim made by the petitioner and even if the certificates are issued, the same would be subject to verification, at a later point of time, by the State Level Scrutiny Committee.

9. The writ petition is disposed of with the above observations. Connected Miscellaneous Petition is closed. No costs.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

ssv

To

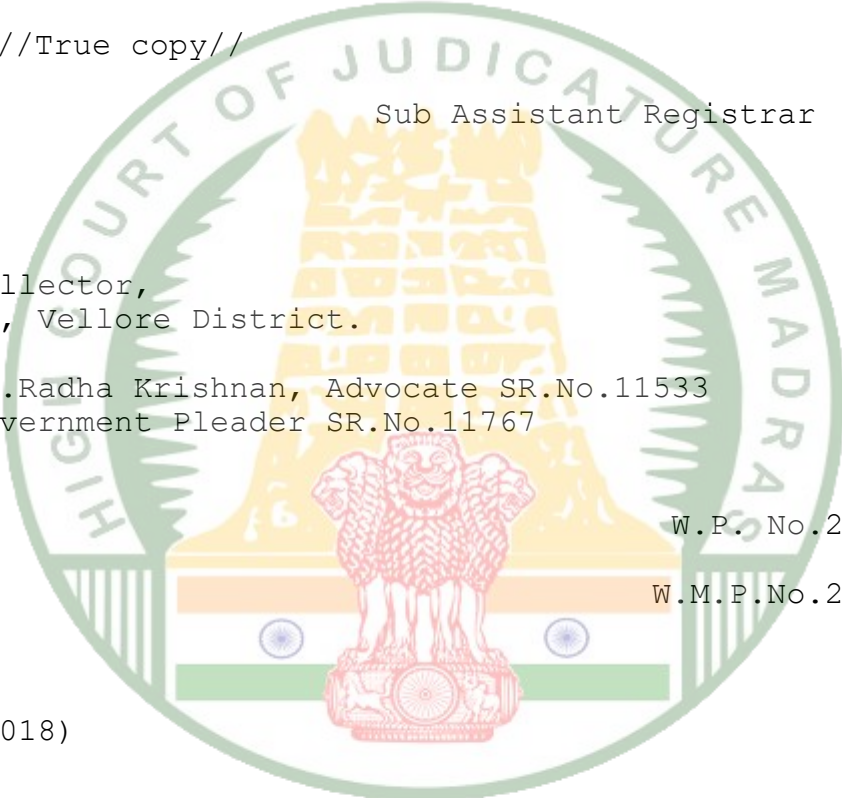
The Sub Collector,
Tirupattur, Vellore District.

+1cc to Mr.Radha Krishnan, Advocate SR.No.11533

+1cc to Government Pleader SR.No.11767

W.P. No.2070 of 2018
and
W.M.P.No.2583 of 2018

GN(15/03/2018)



सत्यमेव जयते

WEB COPY