

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13-02-2018

CORAM:

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

Writ Petition No. 32183 of 2017

K. Sumitha

.. Petitioner

Versus

1. The Revenue Divisional Officer
Krishnagiri Taluk
Krishnagiri District

2. The Thasildar
Then Krishnagiri Taluk, presently Bargur Taluk
Krishnagiri District

.. Respondents

Writ Petition filed under Article 226 of The Constitution of India praying for issuing a Writ of Certiorarified Mandamus calling for the records of the second respondent in his proceedings Na.Ka.707/2016/A4 dated 04.09.2017 and the first respondent in his proceedings Na.Ka.4092/2017/F dated 09.11.2017 and quash the same and consequently direct the respondents to forthwith issue Community Certificate to the petitioner indicating that the petitioner belongs to Panniyandi which comes under Scheduled Caste.

For Petitioner : Mr. K. Raja

For Respondents : Mr. S.N. Parthasarathy
Government Advocate

ORDER

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

The petitioner has come forward with this writ petition seeking to quash the proceedings dated 04.09.2017 as well as the proceedings dated 09.11.2017 of the first respondent and for a consequential direction to direct the respondents to forthwith issue Community Certificate to him indicating that he belongs to Panniyandi community, which is classified as a Scheduled Caste community.

2. According to the petitioner, her father C. Krishnan belongs to Panniyandi community, which is classified as a Schedule Caste as could be evident from the transfer certificate issued to her father. It is further stated that in the sale transaction which culminated in the sale deed dated 30.11.2008, it was clearly indicated the community to which the petitioner's father belongs to as 'Panniyandi' community. Similarly, in the community certificate issued to Mrs. Lakshmi, who is the petitioner's father's aunt's daughter as also the in the name of R. Sakthivel, Ramkumar and Anbazhagan, who are his father's uncle's grandsons, it was clearly indicated that they belong to Panniyandi community. Similar certificates were also issued to the petitioner's father's younger brother's daughter Poornima, her father's elder sister's daughter Eswari, Hamsha, Sister of Sakthivel mentioned above. Above all, Dr. Vijayakumar, who is her father's paternal uncle's son also obtained a certificate indicating that he belongs to Panniyandi community, which is classified as a Scheduled Caste and based on such certificate, Dr. Vijayakumar has secured employment in the Health Department, Government of Tamil Nadu. While so, based on the above certificate issued to the petitioner's father's relatives, nephews and nieces, the petitioner submitted an application dated 14.11.2014 to the second respondent requesting to issue community certificate to her by indicating that the petitioner belongs to Panniyandi community. The said application of the petitioner was rejected by the second respondent against which she filed WP No. 19565 of 2015 before this Court. This Court, by order dated 13.08.2015 disposed of the writ petition with a direction to the petitioner to produce all the certificates for consideration of the second respondent and on receipt of the same, the second respondent was directed to afford an opportunity to the petitioner and to pass orders thereafter on merits. Pursuant to such direction, the second respondent passed an order dated 06.11.2015, once again rejecting the claim of the petitioner. As against the same, the petitioner filed an appeal to the first respondent on 16.01.2016 and the first respondent by order dated 15.02.2017 remanded the matter back to the second respondent for consideration of the claim of the petitioner afresh. In spite of such direction, according to the petitioner, the second respondent did not conduct any enquiry and therefore, the petitioner filed WP No. 16611 of 2017 before this Court for a Mandamus directing the second respondent to issue a community certificate to her. This Court, by order dated 30.06.2017, directed the second respondent to conclude the enquiry, as directed by the first respondent in the order dated 15.02.2017 and to pass orders thereon within four weeks. Pursuant to such direction, the second respondent passed an order of rejection on 04.09.2017 without complying with the directions issued by the first respondent in the order dated 15.02.2017. As against the order dated 04.09.2017 of the second

respondent, the petitioner preferred an appeal before the first respondent and it was rejected by the first respondent on 09.11.2017. Therefore, challenging the orders dated 04.09.2017 of the second respondent and the order dated 09.11.2017 of the first respondent, the petitioner has filed this writ petition.

3. When the writ petition is taken up for hearing, the learned counsel for the petitioner would contend that the petitioner has specifically conducted in his appeal before the first respondent that Dr. Vijayakumar, who is the petitioner's father's paternal uncle's has obtained a certificate indicating that he belongs to Panniyandi community and based on such certificate, Dr. Vijayakumar has secured employment in the Health Department, Government of Tamil Nadu. According to the learned counsel for the petitioner, the respondents did not consider the said document filed by the petitioner in support of her claim. Above all, the learned counsel for the petitioner would contend that the petitioner has prepared a family tree clearly indicating that family members who have obtained community certificate in their favour. The learned counsel for the petitioner would therefore prayed this Court to set aside the orders, which are impugned in this writ petition, and to direct the respondents to consider the family tree produced by the petitioner in support of her claim.

4. On the above contention, we have heard the learned Government Advocate appearing for the respondents and perused the records.

5. The grievance of the petitioner is that the respondents failed to consider the community certificate issued in favour of her relatives. Now, it is specifically contended that the petitioner has prepared a family tree and if it is considered by the respondents, after giving an opportunity to the petitioner, she will be in a position to prove that she belongs to Panniyandi community.

6. Having regard to the above facts, in order to meet the ends of justice, we set aside the orders, which are impugned in this writ petition and remand the matter back to the first respondent for considering the claim of the petitioner. The first respondent is directed to afford an opportunity of hearing to the petitioner and also consider the family tree prepared by the petitioner in support of her claim and thereafter pass a reasoned order on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that we are not expressing any opinion on the merits of the case pleaded by the petitioner and it is for the first respondent to consider the claim of the petitioner independently.

7. With the above direction, the writ petition is disposed of. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

rsh

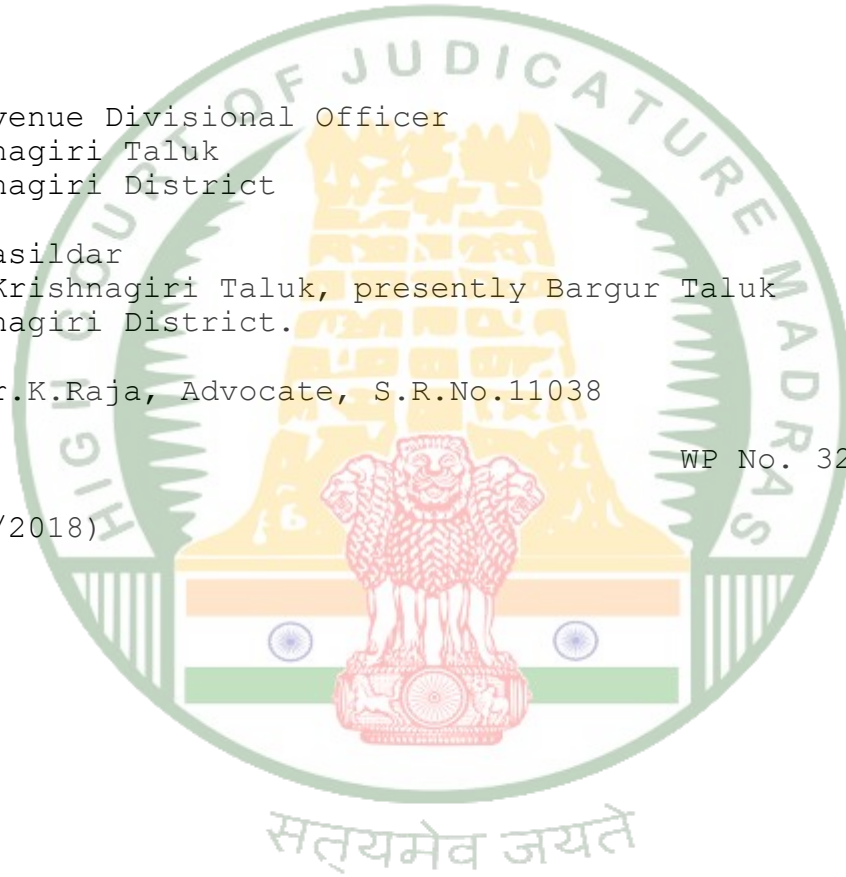
To

1. The Revenue Divisional Officer
Krishnagiri Taluk
Krishnagiri District
2. The Thasildar
Then Krishnagiri Taluk, presently Bargur Taluk
Krishnagiri District.

+1cc to Mr.K.Raja, Advocate, S.R.No.11038

WP No. 32183 of 2017

RRK(23/03/2018)



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