

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29-01-2018

CORAM:

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

Writ Petition No. 32406 of 2017
and
W.M.P. No. 35692 of 2017

T. Kottaiyan

.. Petitioner

Versus

1. The Collector
Villupuram
Villupuram District

2. The Revenue Divisional Officer
Kallakurichi
Villupuram 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 relating to the order of rejection passed in proceedings in Na.Ka.No.M11/478/2017 dated 16.06.2017 on the file of the first respondent, confirming the order of rejection passed in proceedings No.Na.Ka.A7/4747/2012 dated 08.03.2016 on the file of the second respondent, quash the same and direct the respondents to issue community certificate to the children of the petitioner viz., (1) Bhuvaneswari and (2) Tamilselvan that they belong to "Malaikuravan (ST) Community" based upon the community certificate already issued to the petitioner.

For Petitioner

:

Mr. S. Doraisamy

For Respondents

:

Mr. S.N. Parthasarathy
Government Advocate

ORDER

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

The present writ petition is filed by the petitioner seeking to quash the order of rejection passed in proceedings in Na.Ka.No.M11/478/2017 dated 16.06.2017 on the file of the first respondent, confirming the order of rejection passed in proceedings No.Na.Ka.A7/4747/2012 dated 08.03.2016 on the file of the second respondent, and for a consequential direction directing the respondents to issue community certificate to the children of the petitioner viz., (1) Bhuvaneswari and (2) Tamilselvan that they belong to "Malaikuravan (ST) Community" based upon the community certificate already issued to the petitioner.

2. The petitioner claims to be a native of Sankarapuram Village, Villupuram District and that he belongs to Malaikuravan Community, which is classified as a Scheduled Tribe by the Government of Tamil Nadu. According to the petitioner, he obtained a community certificate on 23.08.1988 from the Tahsildar, Kallakurichi to the effect that he belonged to Malaikuravan community. It is also his contention that his relatives have also obtained similar certificate indicating that they belonged to Malaikuravan community. However, when the petitioner submitted an application dated 03.07.2007 to the second respondent requesting to issue community certificate in favour of his children, it was not considered and therefore, he approached this Court by filing WP No. 28981 of 2012. By order dated 27.11.2012, this Court disposed of WP No. 28981 of 2012 with a direction to the second respondent to pass appropriate orders on the application submitted by the petitioner within a period of 12 weeks. Pursuant to such direction, the second respondent passed an order of rejection dated 21.06.2017 which was subjected to challenge by the petitioner by filing WP No. 17585 of 2014. By order dated 04.01.2016, this Court passed an order of remand in WP No. 17585 of 2014 with a direction to the second respondent to conduct a fresh enquiry by following the guidelines issued by this Court in the case in G. Venkitasamy vs. The Chairman, State Level Scrutiny Committee, Chennai (WP No. 30368 and 31873 of 2015). Pursuant to the order dated 04.01.2016 in WP No. 17585 of 2014, the petitioner also submitted records in support of his claim, however, without considering the same, the second respondent once again passed an order of rejection on 08.03.2016. Aggrieved by the same, the petitioner preferred an appeal to the first respondent and it was also dismissed on 16.06.2017. Challenging the aforesaid orders of rejection, the petitioner is before this Court with this writ petition.

3. The main contention urged before us by the learned counsel for the petitioner is that when the petitioner was issued with a community certificate on 23.08.1988 by the Tahsildar, Kallakurichi, recognising his communal status as 'Malaikuravan' community, there is no justification on the part of the respondents to deny such a certificate in favour of his children. Even though the petitioner produced the community certificate issued to him, the respondents, without considering the same, passed the orders of rejection and such orders require the interference of this Court.

4. On the above contention, this Court heard the learned Government Advocate appearing for the respondents, who would contend that the first respondent, in the order of rejection dated 16.06.2017, has given a specific finding that the petitioner did not produce any document prior to 1971 to prove his communal status. Further, in the school records produced by the petitioner, it was stated that the communal status of the petitioner is mentioned as "Kuravar Chetty" and not as "Malaikuravan". Moreover, in the school records pertaining to the mother of the petitioner, it was noticed that her community was indicated as "Hindu - Kuravar". Therefore, the respondents disbelieved the claim made by the petitioner that he belongs to Malaikuravan community and rightly rejected the application submitted by him seeking community certificate to his children. Therefore, the learned Government Advocate prayed for dismissal of the writ petition.

5. We have heard the counsel for both sides and perused the records. On perusal of the records, it is seen that the respondents have given an opportunity of hearing to the petitioner and thereafter, on the basis of the records produced by the petitioner, report received from the revenue officials, passed the orders of rejecting refusing to issue community certificate to the children of the petitioner. When such a finding was given, on facts, we cannot conduct a roving enquiry over such factual findings rendered by the respondents and to substitute our views. In effect, we see no reason to interfere with the orders of rejection, which are impugned in this writ petition. At the same time, we wish to point out that this order will not preclude the petitioner from approaching the competent authority namely the State Level Scrutiny Committee by way of revision, seeking to issue community certificate in favour of his children by producing documentary evidence in support of his claim.

6. Accordingly, we dispose of the writ petition. No costs. Consequently, connected miscellaneous petition is closed. Liberty is given to the petitioner to approach the State Level Scrutiny Committee by filing an application for revision seeking issuance of community certificate in favour of his children, within a period of two weeks from the date of receipt of a copy of this order and if any such application is filed by the petitioner, the State Level Scrutiny Committee is directed to consider it, by affording an opportunity of hearing to the petitioner and thereafter pass an order on merits and in accordance with law as expeditiously as possible, preferably within a period of four months.

Sd/-
Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

rsh

To

1. The Collector
Villupuram
Villupuram District

2. The Revenue Divisional Officer
Kallakurichi
Villupuram District

+1cc to Mr.S.DORAISAMY, Advocate, S.R.No. 6379
+1cc to the Government Pleader, S.R.No. 6584

WP No. 32406 of 2017

TR(20/03/2018)

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