

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2018

CORAM :

THE HON'BLE MR. JUSTICE C.T.SELVAM
AND
THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

Writ Petition No.32438 of 2017

K.Muhil

.. Petitioner

Vs.

The Sub Collector,
Mettur Dam,
Salem District.

.. Respondent

PRAYER in W.P.No.25703 of 2012: Petition under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondent to issue community certificate to the petitioner to the effect that he belongs to the Hindu Konda Reddis community, (Scheduled Tribe) pursuant to the community certificate issued to his father on 15.7.1974 and 23.6.1975 and directions of this Hon'ble Court contained in W.P.No.25157 of 2012, dated 13.2.2014.

For Petitioner : Mr.V.Vijay Shankar

For Respondent : Mr.Thangavadhana Balakrishnan
Additional Government Pleader

ORDER

(Order of the Court was made by M.V.MURALIDARAN,J.)

This writ petition has been filed seeking issuance of a writ of mandamus directing the respondent to issue community certificate to the petitioner to the effect that he belongs to the Hindu Konda Reddis community, (Scheduled Tribe) pursuant to the community certificate issued to his father on 15.7.1974 and 23.6.1975 to the directions of this Hon'ble Court contained in W.P.No.25157 of 2012 dated 13.2.2014.

2. In the affidavit filed in support of the writ petition, it is averred that the petitioner belongs to "Konda Reddis community", which is classified as Scheduled Tribe. In the school certificate also the petitioner's community is entered as Konda Reddis (ST) community. His father was issued community certificate dated 15.7.1974 and 23.6.1975

by the Tahsildar, Mettur Dam. His mother also belongs to Konda Reddis .

3. It is stated that, the petitioner after completing his higher education, joined MBBS degree in the year 2003 and completed in 2009. At the time of joining in MBBS degree, the petitioner's father applied for community certificate and the same was rejected by the Revenue Divisional Officer vide order dated 11.6.2003. Challenging the rejection order, the petitioner's father filed W.P.No.16567 of 2003 and the same was disposed of by this Court vide order dated 22.7.2010 setting aside the order of the Revenue Divisional Officer and directing to reconsider the application. Once again, the Revenue Divisional Officer, rejected the application of the petitioner on 7.10.2010. Aggrieved over the same, the petitioner filed W.P.No.26355 of 2010. By an order dated 19.8.2011, this Court, set aside the order of the Revenue Divisional Officer and remitted the matter to the Revenue Divisional Officer for reconsideration.

4. It is further stated that once again, the Revenue Divisional Officer, without considering the documents submitted by the petitioner, rejected the application on 11.5.2012. Challenging the same, the petitioner filed W.P.No.25157 of 2012. By an order dated 13.2.2014, the said writ petition was disposed of by directing the Revenue Divisional Officer to reconsider the issue taking note of the fact that the relatives of the petitioner are issued with community certificates.

5. Case of the petitioner is that pursuant to the order dated 13.2.2014 in W.P.No.25157 of 2012, he made a representation by enclosing a genealogy chart and copy of community certificates issued to the close relatives of the petitioner to the respondent. Since no steps had been taken, the petitioner sent a reminder on 25.5.2015. It is alleged that despite the reminder and also personal meeting of the father of the petitioner, the Revenue Divisional Officer has not issued the community certificate to the petitioner and is adopting an indifferent attitude. In July 2017, the petitioner sent another reminder to the Revenue Divisional Officer seeking to issue the community certificate and the same has not evoked any response. Hence, the petitioner has filed the present writ petition seeking a writ of mandamus directing the petitioner to issue Konda Reddis community certificate to the petitioner.

6. Denying the averments in the writ petition, the respondent filed counter-affidavit stating that after verification of all the documents and also local enquiry, the respondent came to the conclusion that the petitioner and his family members do not belong to Konda Reddis community, but belong to Hindu Reddiar community. In the counter, it has been stated that the documents relied upon by the petitioner are

not genuine. By an order dated 11.5.2012 in W.P.No.25157 of 2012 though this Court directed the petitioner to produce the relationship certificate issued by the Tahsildar or competent authority, the same has not been produced by the petitioner till date to prove his claim. It has been further stated that since the community certificate issued in favour of one Sanjeevi is under verification by the State Level Scrutiny Committee, the claim made by the petitioner has not been taken into account. The guidelines given in G.O.Ms.No.1139, Social Welfare Department, dated 23.3.1982 has not been fulfilled by the petitioner. Despite giving sufficient opportunity to the petitioner to prove his community status as Scheduled Tribe, he has not chosen to produce any record showing that he belongs to Konda Reddis community. There is no birth mentioned as Konda reddis in and around Kolathur village from 1941 to 1977. The birth register of the paternal relatives of the petitioner were registered as Hindu Reddy and Hindu Reddiar, which is a forward community. The petitioner has no locus standi to get Konda reddis community certificate and prays for dismissal of the writ petition.

7. Learned counsel for the petitioner submits that the petitioner's father was issued with community certificate vide order dated 23.6.1975 by the Tahsildar, Mettur, to the effect that he belongs to Konda Reddi community, which is notified as Scheduled Tribe community. On the strength of his father's community certificate, the petitioner applied for similar certificate to the Revenue Divisional Officer, Mettur Dam and the same was rejected by the last order dated 12.04.2012.

8. Learned counsel would further submit that earlier the petitioner approached the Revenue Divisional Officer, Mettur Dam, twice and the Revenue Divisional Officer, Mettur Dam, despite direction of this Court, rejected the claim of the petitioner. Writ petition being W.P.No.25157 of 2012 was filed by the petitioner seeking to quash the order of the respondent dated 11.5.2012 and to issue community certificate and the same was disposed of by a Division Bench of this Court on 13.2.2014 by remitting the matter to the respondent for fresh consideration. Pursuant to the order passed in W.P.No.25157 of 2012, the petitioner made an application on 10.3.2014 seeking community certificate by enclosing the genealogy and the relationship certificate of one Sanjeevi, attested by Notary. Despite receipt of the representation, followed by a reminder dated 20.7.2017, the respondent has not issued the community certificate in favour of the petitioner.

9. On the other hand, the learned Additional Government Pleader submits that despite opportunity given, the petitioner has failed to produce the relationship certificate issued by the Tahsildar or competent authority. Moreover, the community certificate issued in favour of one Sanjeevi relied upon by the petitioner has been forwarded to State Level Scrutiny Committee for verification and the same is pending enquiry.

10. On a perusal of the typed set of papers, it is seen that the petitioner's father was issued with a community certificate way back on 15.7.1974 by the Tahsildar, Mettur Dam, certifying that "Mr.S.Angireddy, son of Thiru.Sinnaraju, resident of Kolathur village, Mettur Taluk belongs to Konda Reddy community, which is classified as Scheduled Tribe". Similarly, in the community certificate issued in favour of S.Angi Reddi by the Tahsildar, Mettur Dam, dated 23.6.1975, it has been mentioned as "S.Angi Reddi, son of Sinna Reddi, resident of Kolathur village, Mettur taluk belongs to Konda Reddi, which is classified as Scheduled tribe", wherein the seal of the office of the Tahsildar, Mettur Dam has been affixed.

11. It is admitted by the respondent that Angi Reddy is none other than the father of the petitioner. On a perusal of the earlier rejection order dated 7.10.2010, it has been mentioned that in the records, the social status of the petitioner's father was originally mentioned as Reddiar and above the line Konda has been inserted.

12. On perusal of the copy of the community certificate dated 23.6.1975 qua the petitioner's father annexed to the typed set of documents [page No.1(a)], we find that there is no difference as alleged by the respondent. Moreover, as stated supra, the said community certificate has been issued by the Tahsildar, Mettur, affixing the seal of the office of the Tahsildar, Mettur Dam. Till date the said certificate has not been cancelled by any authority.

13. As per the decision in R.Kandasamy v. The Chief Engineer, Madras Port Trust, reported in (1997) 7 SCC 505, the community certificate issued by the authorities prior to 11.11.1989 are relevant for consideration.

14. In our opinion, as has been held in a catena of judgments, a community certificate is presumed to be valid so long as the same is not cancelled in the eye of law and in the event a certificate is assigned on the basis of an earlier certificate issued in favour of the parents or the brother or sister or relatives, the same could be taken into consideration.

15. Failure on the part of the Revenue Divisional Officer in considering the community certificate issued in favour of the father of the petitioner and the relatives on the ground that those certificates are liable for verification cannot be accepted. Unless and until the community certificates issued to them have been set aside in the manner known to law, the same are valid and subsisting.

16. In the earlier writ petition being W.P.No.26335 of 2010 filed by the petitioner seeking to quash the rejection

order of the respondent dated 7.10.2010, the Division Bench of this Court held as under:

"6.We make it clear, as could be seen from the impugned order, a verification from the registers maintained by the Tahsildar showed that there are no serial numbers given in the community certificate and the Revenue Divisional Officer has also doubted the certificate obtained by the father and relatives of the petitioner and therefore, it is open to the Revenue Divisional Officer to forward those certificates to the State Level Committee for verification as well. In the mean time, those certificate could be considered and a decision has to be taken and in the event if the Revenue Divisional Officer is of the opinion that the petitioner is entitled to community certificate, he shall issue the same."

17. In the counter, it has been stated that most of the community certificates of the relatives of the petitioner are pending with the State Level Scrutiny Committee for verification. Even the petitioner's father community certificate is also under question and the same has been sent to the State Level Scrutiny Committee for verification of its genuineness.

18. No iota of material is placed before us showing when those community certificates have been sent for verification to the State Level Scrutiny Committee and whether really the State Level Scrutiny Committee had passed an order qua the veracity of such certificates. As stated supra, the community certificate issued to the petitioner's father cannot be questioned as per the decision in R.Kandasamy (supra) for the reason that the same was issued prior to 11.11.1989.

19. Learned counsel for the petitioner has cited the order of the Division Bench of this Court in W.P.No.36600 of 2006, dated 14.7.2010 and submitted that the Division Bench of this Court directed the respondents to issue community certificate to the petitioner therein stating that she belongs to Konda Reddi community, a notified Scheduled Tribe. Learned counsel further submits that the petitioner in W.P.No.36600 of 2006 is daughter of Sanjeevi, cousin of petitioner's father and the said order would squarely apply to the case on hand.

20. It is pertinent to mention that the petitioner has produced a copy of affidavit affirmed by S.Sanjeevi that the petitioner herein (K.Muhil, son of Kannan) is the son of his cousin. In the affidavit, it has been stated that pursuant to the direction given by this Court in W.P.No.36600 of 2006, his daughter Ms.C.Tharaa Shanmathy was issued with community certificate on 22.9.2010. It has also been stated in the affidavit that K.Muhil is his cousin's son and they are blood related cousins. The said affidavit has been attested by one

M.James Charles, Advocate/Notary.

21. In (2008) 4 MLJ 524 (V.Krishnan and another, Chennai v. S.T. Certificate Issuing Officer and Personal Assistant), challenge was made by the petitioners therein to the order rejecting the request for issuance of the community certificate and this Court found that the community certificates to the relatives relied on by the petitioners therein have not been cancelled and in the absence of cancellation of those certificates, the authorities are bound to issue community certificate to the petitioners therein.

22. In State of Bihar v. Sumit Anand, reported in (2005) 12 SCC 248, the Hon'ble 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.

23. The Hon'ble Supreme Court as well as this Court time and again held that when community certificates issued in favour of the parents of the applicants by a competent authority subsist, the authorities are bound to consider the same, unless the same are set aside by a higher authority, while issuing community certificate to their children, as children of a particular community derive their social status from their parents.

24. In the instant case, it is not the case of the respondent that the community certificate issued to the petitioner's father has been set aside by the competent authority. Therefore, in the light of the law enunciated in the decisions referred supra, the petitioner is entitled to such community certificate.

25. As stated supra, under identical circumstances, the Division Bench of this Court in W.P.No.36600 of 2006, dated 14.7.2010, directed to issue community certificate to the petitioner therein stating that she belongs to Konda Reddi community. No appeal is pending against the said order. Judicial propriety demands that we follow the order in Minor S.Thara Shanmathi (supra) rendered by a Bench of Co-ordinate strength.

26. As stated supra, the petitioner had already approached this Court thrice by filing writ petitions and pursuant to the directions issued by this Court in W.P.No.25157 of 2012, dated 13.2.2014, the petitioner approached the authority by submitting representation dated 10.3.2014, which has been till date not considered by the respondent followed by the reminder dated 20.7.2017. Therefore, we feel that it will be a futile exercise to remand the matter once again to the respondent or any other revenue officials as the case may be, since the issue of community

certificate in favour of the petitioner is pending from the year 2010.

27. In view of the overwhelming evidence which supports the case of the petitioner that he belongs to Konda reddy community, we are of the firm view that the petitioner is entitled to be issued with such community certificate.

28. For the foregoing reasons, we direct the respondent to issue community certificate to the petitioner to the effect that he belongs to Konda reddy community, which is classified as Scheduled Tribe. Such exercise shall be undertaken by the respondent within a period of four weeks from the receipt of a copy of this order.

29. The writ petition is disposed of accordingly. No costs.
vs

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To
The Sub Collector,
Mettur Dam, Salem District.

+1cc to Mr.V.Vijayshankar, Advocate Sr.No.7544
+1cc to Government Advocate SR.No.7986

sm:21.2.2018

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