

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.07.2018

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL  
AND  
THE HONOURABLE Mr. JUSTICE M.NIRMAL KUMAR

W.P.No.11082 of 2018

M.Murugan

... Petitioner

Vs.

The Revenue Divisional Officer,  
Harur, Dharmapuri

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the respondent to issue Community Certificate to the Petitioner's Minor son, viz., M.Sathveer that he belongs to "Kurumans (ST) Community" based upon the proceedings of the State Level Scrutiny Committee passed in favour of the Petitioner's own brother in proceedings no.8690/CVIII/2012 dated 24.03.2014 and based upon the Community Certificate possessed by the Petitioner and his family members.

For Petitioner : Mr.S.Doraisamy

For Respondent : Mr.K.Rajendra Prasad  
Additional Government Pleader

O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

Heard both sides.

2. It is the stand of the Petitioner that he belongs to 'Kurumans Community', which is a Scheduled Tribe Community and he is serving as Lecturer in a Private College. He and his brother, viz., M.Krishnamoorthy obtained Community Certificate from the Respondent / Revenue Divisional Officer, Dharmapuri on 07.08.1995 stating that they belong to Kurumans (ST) Community. His father and mother also obtained a certificate from the Respondent.

3. The Learned Counsel for the Petitioner submits that the Petitioner's own brother was elected as a Panchayat President in Moolaiyanoor Village Panchayat, Dharmapuri District under Schedule Tribe Quota in the elections that took place on 19.11.2011. As a matter of fact, the District Election Officer, Dharmapuri District had referred the Petitioner's brother Community Certificate to the State Level Scrutiny Committee, as per G.O.Ms.No.108, Adi Dravidar and Tribal Welfare (CV1) Department, dated 12.09.2007.

4. The Learned Counsel for the Petitioner brings it to the notice of this Court that after due enquiry and through verification of necessary documents, the Tamilnadu State Level Scrutiny Committee had recorded its findings on 24.03.2014 [vide Proceedings No.8690/CVIII/2012] wherein at Paragraph Nos.9 and 10, it is observed as under:

"9. After perusal of his records /documents the State Level Scrutiny Committee has decided to enquire the Writ Petitioner Thiru.K.Ramalingam who filed Writ Petition against Thiru.K.Ramalingam who filed Writ Petition against Thiru.M.Krishnamoorthy, Panchayat President of Moolaiyanoor Panchayat. But he did not appear on 05.12.2013, 29.01.2014 and 24.02.2014. Hence the State Level Scrutiny Committee has decided the Community status of Thiru.M.Krishnamurthy.

10. After careful examination, the Committee have unanimously decided that Thiru.K.Krishnamurthy, S/o Thiru K.Manickam belongs to Hindu 'Kurumans' Scheduled Tribe Community. Accordingly, the State Level Scrutiny Committee hereby confirms that the Hindu 'Kurumans' Scheduled Tribe Community Certificate bearing S.I.No.2640716 dated 07.08.1995 issued by the Revenue Divisional Officer, Dharmapuri to Thiru M.Krishnamurthy, s/o Thiru K.Manickam residing at Veerabadran Koil Street, Moolaiyanoor Post, Pappireddipatty Taluk, Dharmapuri District - 635 302 is a genuine one."

5. The crystalline stand of the Petitioner is that he preferred an Application on 14.07.2016 praying for issuance of Community Certificate to his Minor son, viz., M.Sathveer, aged four years that he belongs to Kurumans (ST) Community and along with the application, he had enclosed the following five documents:

- (i) Petitioner's Father's Community Certificate
- (ii) Petitioner's Mother's Community Certificate
- (iii) Petitioner's Community Certificate
- (iv) Petitioner's own brother's Community Certificate
- (v) Genuineness report of the State Level Scrutiny Committee.

and in fact, his application was forwarded by the Respondent to the Tahsildar, Pappireddipatti. The Tahsildar, Pappireddipatti conducted an enquiry and submitted a report to the Respondent. However, no certificate is issued by the Respondent till date.

6. The principal stand taken on behalf of the Petitioner is that once all the family members of the Petitioner are possessing Community Certificate and the Petitioner's own brother's Community Certificate is certified to be a genuine one, then, it is incumbent on the part of the Respondent to issue Community Certificate to Petitioner's son, M.Sathveer that he belongs to 'Kurumans (ST) Community'.

7. At this juncture, the Learned Counsel for the Petitioner brings it to the notice of this Court that in W.P.No.11081 of 2018 between K.Elamurugan V. The Revenue Divisional Officer, Harur, Dharmapuri District on 18.06.2018 at Paragraph No.10 and 11 had observed the following:

"10. When once the Petitioner, as per Proceedings of the Tamil Nadu State Level Scrutiny Committee, dated 17.12.2013 was found to be a person belonging to Hindu 'Kurumans' (ST) Community and further, the Certificate dated 19.07.2002 was found to be a genuine one, then there can be no difficulty for the Respondent to act upon the said Proceedings and consequently to issue the Community Certificate to and in favour of the Petitioner's son, viz., R.E.Sharvesh that he belongs to 'Kurumans' (ST) Community, ofcourse, resting upon the said Proceedings of the State Level Scrutiny Committee, dated 17.12.2013.

11. In view of the fact that the Petitioner requires 'Kurumans' (ST) Community Certificate to and in favour of his son, viz., R.E.Sharvesh, to make an entry in the School Records, at this stage, this Court deems it fit and proper in directing the Respondent to issue the 'Community Certificate' to and in favour of the Petitioner's Son, resting upon the findings arrived at by the Tamil Nadu State Level Scrutiny Committee, Adi Dravidar and Tribal Welfare Department, in Proceedings No.16559/CVIII 2011, dated 17.12.2013, within a period of two weeks from the date of receipt of copy of this Order."

8. Be that as it may, considering the fact that the Petitioner requires a Community Certificate to and in favour of his son, viz., M.Sathveer to the effect that he belongs to 'Kurumans ST Community' based upon proceedings of State Level Scrutiny Committee passed in favour of the Petitioner's own brother [vide Proceedings No.8690/CVIII/2012 dated 07.08.1995] and based upon the Community Certificate possessed by him

[Petitioner] and his family members, this Court, based on Equity, Fair Play, Good Conscience and even as a matter of Prudence, directs the Respondent to issue Community Certificate to and in favour of the Petitioner's minor son, viz., M.Sathveer based upon proceedings of the State Level Scrutiny Committee passed in favour of Petitioner's own brother, viz., M.Krishnamoorthy and after taking into account of the Community Certificate possessed not only by the Petitioner and also by his family members within a period of three weeks from the date of receipt of copy of this order.

With the above said observations and directions, this Writ Petition is disposed of. No costs.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssd  
To

The Revenue Divisional Officer,  
Harur, Dharmapuri.

+1cc to Mr.S.Doraisamy, Advocate Sr.47791  
+1cc to the Government Pleader Sr.48542

W.P.No.11082 of 2018

ev[co]  
srg 7/8/2018

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