

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2018

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.11214 of 2018

Anjana

... Petitioner

Vs.

The Revenue Divisional Officer,
Dharmapuri.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records in the order bearing Na.Ka.8225/2015/A4 dated 18.08.2017 passed by the respondent and quash the same and direct the respondent to decide the application of the petitioner dated 24.08.2015 afresh in accordance with law.

For Petitioner : Mr.M.Radhakrishnan

For Respondent : Mr.S.N.Parthasarathy,
Government Advocate.

O R D E R

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

This writ petition has been filed to quash the order bearing No.Na.Ka.8225/2015/A4 dated 18.08.2017 passed by the respondent and consequently direct the respondent to decide the application of the petitioner dated 24.08.2015.

2. The case of the petitioner is that she belongs to Kurumans Scheduled Tribe community. She had submitted an application to the respondent on 24.08.2015 for issuance of 'Kurumans' Scheduled Tribe Certificate for herself, her husband and her three children. But no action was taken on the said application by the respondent. Hence, the petitioner was left with no other option except to file a writ petition in W.P.No.14416 of 2016 for issuance of a Mandamus directing the respondent to decide the community status of the petitioner, her husband and her three children. This Court, by order dated 24.01.2016 directed the respondent to pass appropriate orders on

her application on its own merits and in accordance with law. On receipt of the order, the respondent held an enquiry to decide the community status of the petitioner. During the course of enquiry the petitioner also produced a copy of the proceedings of the State Level Scrutiny Committee dated 01.12.2014 in respect of one Adiyaman, son of Mr.Manivanna, who is the blood relative i.e.,paternal uncle's grandson, wherein the said Adiyaaman has been declared that he belongs to ''Kurumans'' Scheduled Tribe. But the respondent, without considering the said document, has passed the order dated 18.08.2017, keeping her application in abeyance. Against the said order, the present writ petition is filed.

3. The only grievance of the petitioner is that instead of deciding the application, based on the proceedings of the Tamilnadu State Level Scrutiny Committee issued in favour of one Adiyaman, who is the paternal uncle's grandson, the respondent has kept the petitioner's application in abeyance. Thus, she sought for a direction to the respondent to pass appropriate order on her application, considering the proceedings dated 01.12.2014 passed by the Tamilnadu State Level Scrutiny Committee.

4. Countering the above submission, the learned Government Advocate submitted that it is incorrect to state that the petitioner has produced the proceedings dated 01.12.2014 before the first respondent. On the other hand, the petitioner had produced the certificate issued in favour of one Balamanikandan, who is the petitioner's brother son. But the community certificate of Balamanikandan was referred to State Level Scrutiny Committee for verification and till date, the State Level Scrutiny Committee has not passed any orders. Hence, awaiting the result of verification, the respondent has kept the matter in abeyance. Thus, the learned Government Advocate submitted that absolutely, there is no need to interfere with the order passed by the respondent. Once an order is passed by the State Level Scrutiny Committee in respect of the certificate issued to Balamanikandan, necessary order will be passed in respect of the petitioner.

5. By way of reply, learned counsel for the petitioner submitted that along with the community certificate of Balamanikandan, the petitioner has also produced the proceedings of the State Level scrutiny Committee issued in respect of Adiyaman, who is her paternal brother's grandson but the respondent had chosen to consider only the community certificate of Balamanikandan, whose certificate was referred to State Level scrutiny Committee. Thus, he sought for a direction to consider her application, based on the certificate of Adhiyaman.

6. Be that as it may, we are of the opinion that for the purpose of issuing the community certificate, it is not necessary for the respondent to wait for the outcome of the reference made to the State Level Scrutiny Committee in respect of the Community certificate issued to one Balamaniandan. The respondent can independently decide the issue by considering the other documents. Hence, in these factual matrix of the case, we are constrained to pass the following order:

i) The writ petition is allowed. The impugned order is set aside and the matter is remitted back to the respondent.

ii) The petitioner is directed to produce a copy of the community certificate of Adiyaman and on such production, the respondent shall consider the application of the petitioner for issuance of community certificate to the petitioner and her family members.

iii) The respondent shall examine the blood relationship between the petitioner and Adiyaman by affording an opportunity of hearing to the petitioner and on being satisfied with the same, the respondent shall pass appropriate orders. The said exercise shall be done by the respondent within a period of one month from the date of receipt of a copy of this order.

No costs.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

vsi

To

The Revenue Divisional Officer,
Dharmapuri.

+1cc to Mr.M.RADHAKRISHNAN, Advocate, S.R.No.34759
+1cc to the Government Pleader, S.R.No. 35350

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NRI (CO)
TR(09/07/2018)

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