

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 02.02.2018

PRONOUNCED ON:14.02.2018

CORAM

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

W.P. No. 34313 of 2017

K. Komathi

..Petitioner

Vs.

The Sub Collector,
Mettur, Salem District.

..Respondent

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records in the order bearing No.Na.Ka1453/2016/D dated 16.06.2017 passed by the respondent and quash the same and direct the respondent to declare that the petitioner belongs to Kurumans Scheduled Tribe.

For Petitioner :: Mr.M. Radhakrishnan

For Respondent :: Mr.S.N. Parthasarathy
Govt. Advocate

ORDER

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

The present writ petition has been filed to quash the order bearing No. Na.Ka. 1453/2016/D dated 16.06.2017 passed by the respondent and to direct the respondent to declare that the petitioner belongs to Kurumans (Scheduled Tribe) community.

2. The case of the petitioner is that she belongs to kurumans, which is a Scheduled Tribe Community. Pursuant to the application submitted by the petitioner on 02.06.2017, for issuance of community certificate for her children, an enquiry with regard to the status of the community of the petitioner was conducted by the respondent. After completion of enquiry, the respondent came to the conclusion that the petitioner and her

family members belong to Hindu Kurumba community, which comes under Most Backward Class and therefore, vide order dated 16.06.2017 rejected the request of the petitioner for issuance of Kurumans community certificate to her children. Challenging the same, the present writ petition has been filed.

3. When the matter is taken up for consideration, learned counsel for the petitioner has produced the proceedings of the Tamil Nadu State Level Scrutiny Committee dated 27.03.2014 and 28.04.2008, relating to one S. Kaviarasan and another, by name Ms.K.Devi, respectively, who are blood relatives of the petitioner, wherein the Committee, after enquiry and careful examination of relevant documents, has declared them to be belonging to Kurumans Community. The learned counsel for the petitioner has also produced the Genealogy Certificate to show that the said S. Kaviarasan, K. Devi as well as the petitioner are the descendants of one Narasimman. Further, the learned counsel for the petitioner has placed reliance upon the judgment dated 22.04.2016 of the Division Bench of this Court rendered in P. Govindarasu V. The Revenue Divisional Officer, Harur, Dharmapuri District (W.P. Nos. 17231, 17232, 17495 & 17496 of 2015), wherein, after referring to various judgments governing the issue in question, it was observed as follows:

"15. The competent authorities, without following the directions and the guidelines issued by this Court, rejecting the applications on erroneous consideration that the applicants belong to Kurumbar (MBC) community which is not notified under the Presidential Notification. Hence, in addition to the above guidelines, we would like to issue further directions as follows:

(i) The competent authority while issuing the community certificate, should consider the Schedule Tribe Community certificate issued in favour of the parents and close relatives of the applicants, subject to verification of the relationship and until the above certificates are cancelled by the higher authority namely, State Level Scrutiny Committee, the competent authority should accept the same and issue Schedule Tribe Community Certificate to the applicants.

(ii) The competent authority should not reject the application referring the name of Kurumbar (MBC) while deciding the claim for issuance of Kurumans (ST) community certificate as authorities are not entitled to refer the name of Kurumbar (MBC) for the purpose of deciding the issue of granting Kurumans (ST) Community Certificate."

Relying upon the aforesaid judgment, it is contended by the learned counsel for the petitioner that when the community certificates issued to the blood relatives of the petitioner have not been cancelled and rather, the State Level Scrutiny Committee itself has confirmed that blood relatives of the petitioner, namely, S. Kaviarasan and K. Devi, belong to Kurumans community and when the said fact was also placed before the respondent, the impugned order rejecting the request of the petitioner and declaring that the petitioner and her family members only belong to Hindu Kurumba community is untenable. The learned counsel would further submit that the respondent has not dealt with the relationship between the petitioner and the said Kaviarasan and Devi. Therefore, for all the above reasons, the impugned order is liable to be set aside.

4. Per contra, the learned Government Advocate appearing for the respondent would submit that the impugned order has been passed by considering the various documents produced on the side of the petitioner and therefore, there is no need to set aside the same. According to the learned Government Advocate, if the petitioner is still aggrieved, it is always open to her to file an appeal before the State Level Scrutiny Committee challenging the order under challenge.

5. Heard the learned counsel for the parties.

6. On a perusal of the order under challenge, as rightly contended by the learned counsel for the petitioner, we find that the relationship between the petitioner and S. Kaviarasan and K. Devi, whom, according to the petitioner are her blood relatives, has not been discussed. Moreover, it is evident from the proceedings of the Tamil Nadu State Level Scrutiny Committee dated 27.03.2014 & 28.04.2008 that the community certificates issued to the said S. Kaviarasan and K. Devi stating that they belong to Kurumans community have been confirmed by the Committee, after due enquiry and verification of relevant documents. In such circumstances and in the light of the observations made by the Division Bench of this Court in the aforesaid judgment, we are of the considered view that it would be appropriate to remit the matter back to the respondent for fresh consideration and disposal.

7. Accordingly, the impugned order dated 16.06.2017 is set aside and the matter is remitted back to the respondent, who shall consider the application of the petitioner for issuance of community certificate to her children afresh. The respondent shall examine the relationship between the petitioner and S. Kaviarasan and K. Devi, by affording an opportunity of hearing to the petitioner and on being satisfied with the blood relationship between the petitioner and the said S. Kaviarasan

and K.Devi, shall pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order.

8. It is made clear that the above order has been passed without expressing any opinion on the merits of the claim made by the petitioner and even if the certificates are issued, the same would be subject to verification, at a later point of time, by the State Level Scrutiny Committee.

9. The writ petition is disposed of with the above observations. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

nv

To

The Sub Collector,
Mettur, Salem District.

+1cc to Mr.M.Radhakrishnan, Advocate, S.R.No.11534

+1cc to the Government Pleader, S.R.No.11769

W.P. No. 34313 of 2017

NRK (CO)

RRK (07/03/2018)

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