

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 25.10.2018

Orders Pronounced on : 02.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.No.21557 of 2018

M.Govindan .. Petitioner
Vs.

The Revenue Divisional Officer,
Harur,
Dharmapuri District. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records in the order bearing No.Na.Ka.2211/2015/A1, dated 24.04.2018 passed by the respondent and direct the respondent to issue "Kurumans" Scheduled Tribe Community Certificates to the petitioner and his wife Kalaivani and daughters Keerthiga and Karthiga immediately.

For petitioner : Mr.M.Radhakrishnan

For respondents : Mr.K.Rajendra Prasad, Addl.G.P.

ORDER

R.SUBBIAH, J

The present Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus praying for issuance of a Writ of Certiorarified Mandamus to call for the records in the order bearing No.Na.Ka.2211/2015/A1, dated 24.04.2018 passed by the respondent and direct the respondent to issue "Kurumans" Scheduled Tribe Community Certificates to the petitioner and his wife Kalaivani and daughters Keerthiga and Karthiga immediately.

2. It is the case of the petitioner that he belongs to Kurumans Community, which is a Scheduled Tribe. Earlier, the petitioner filed W.P.No.32323 of 2017 for issuance of a Writ of Mandamus to direct the respondent to issue Kurumans Scheduled Tribe Community Certificate to the petitioner and his wife Kalaivani and daughters Keethiga and Karthiga within a

reasonable time. A Division Bench of this Court, by order dated 13.12.2017 passed in the said W.P.No.32323 of 2017, directed the respondent to enquire into the relationship between the petitioner and persons whose certificates are produced in support of the claim and pass orders within a period of four weeks from the date of receipt of the order. It is the further case of the petitioner that one Mr.P.Sakthivel, being his blood relative, has been declared to be belonging to Kurumans Scheduled Tribe by the State Level Scrutiny Committee, vide proceedings dated 17.12.2013. Instead of issuing Community Certificate, the respondent had passed the impugned order dated 24.04.2018 to the effect that necessary action would be taken only on receipt of a report from the State Level Scrutiny Committee regarding the genuineness of the Community Certificate of one Nagaraji who is the brother of the petitioner, and the said order passed by the respondent is without jurisdiction. Challenging the said order dated 24.04.2018, the petitioner has filed the present Writ Petition for the relief stated supra.

3. Learned counsel for the petitioner submitted that by setting aside the impugned order, the respondent may be directed to issue Community Certificate and after issuance of such Certificate, the respondent may refer the Certificate to the State Level Scrutiny Certificate for verification.

4. By filing counter affidavit, learned Additional Government Pleader appearing for the respondent submitted that as against the impugned order passed by the respondent, there is an effective alternative remedy of appeal available to the petitioner before the District Collector and without exhausting such appeal remedy, the petitioner has come forward with this Writ Petition under Article 226 of the Constitution of India.

5. The learned counsel for the petitioner has enclosed genealogy (family tree) in the typed set of papers filed along with this Writ Petition, but the same was not produced before the respondent. If the genealogy is produced before the respondent, considering the same, appropriate orders would have been passed by the respondent. Learned counsel for the petitioner relied on two judgments of a Division Bench of this Court in W.P.No.27104 of 2018, dated 12.10.2018 (B.Inbasekaran Vs. The Revenue Divisional Officer, Dharmapurai) and W.P.No.9696 of 2018, dated 18.09.2018 (Logaminnala and others Vs. The Revenue Divisional Officer, Dharmapuri), and in those decisions, the Community Certificates were issued to the family members of the petitioners therein and this Court set aside the orders impugned therein and directed that, after issuance of the Community Certificate, the respondent-RDO therein was given liberty to send the Community Certificate for verification by the State Level Scrutiny Committee.

6. Insofar as the present case is concerned, as stated supra, already, a direction was issued in W.P.No.32323 of 2017, by order dated 13.12.2017 to the respondent-RDO to enquire into

the relationship between the petitioner and persons whose certificates are produced in support of his claim and to pass orders within certain time limit. Hence, again and again, no direction need be given in relation to the issuance of Community Certificate. This Court is not inclined to set aside the impugned order and give a positive direction for issuance of Community Certificate to the petitioner. It is for the petitioner to file appeal before the District Collector concerned, along with genealogy (family tree) as against the impugned order passed by the respondent-RDO herein, and on receipt of the said appeal, the same shall be considered by the District Collector concerned and appropriate orders be passed on merits and in accordance with law, by considering the relationship of the petitioner with the other family persons whose Community Certificates are relied on by the petitioner herein. The said order shall be passed by the District Collector within a period of eight weeks from the date of filing of such appeal by the petitioner.

7. With the above observations and direction, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

cs

To

The Revenue Divisional Officer,
Harur,
Dharmapuri District.

+1cc to the Government Pleader, S.R.No. 78293

W.P.No.21557 of 2018

MG(CO)
GN(07/12/2018)