

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2018

CORAM:

THE HON'BLE MR.JUSTICE M.VENUGOPAL
AND
THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.11744 of 2018
and
W.M.P.Nos.13712 and 13713 of 2018

Murali Petitioner

vs.

- 1.The District Collector,
Salem District,
Salem-1
 - 2.The Sub-Collector,
Mettur Dam-1,
Salem District.
 - 3.The Revenue Divisional Officer,
Mettur Dam-1
 - 4.The Tahsildar,
Kadayampatty
 - 5.The Director (NEET),
Central Board of Secondary Education,
National Eligibility cum Entrance Test Unit,
Shiksha Kendra-2-Community Centre,
Preet Vihar, Delhi-110 092
- ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, calling for the records relating to Order No.Pa.Mu.972/2018/D, dated 13.4.2018, passed by the 2nd Respondent and quash the same and to direct the Respondents to issue ST Community Certificate to the Petitioner's son, Renesh, by recognising him as belonging to Hindu-Kurumans Community on the basis of the ST Community Certificate issued to the close blood relatives of the Petitioner and enable the Petitioner's son to appear in the NEET-2018 under ST category with all consequential benefits.

For Petitioner : Ms.K.Nithyashree

For Respondents : Mr.S.N.Parthasarathy,G.A.

For R1 to R4

Mr.Nagaraj, Standing Counsel for R5

ORDER

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

Heard the Learned Counsel for the Petitioner, the Learned Government Pleader for R1 to R4 and the Learned Standing Counsel for the 5th Respondent.

2.According to the Petitioner, he is the native of Omalur Taluk, Salem District and has studied up to X Standard. He belongs to Hindu 'Kurumans' Community, which is recognised as 'Scheduled Tribe' community. He married one Reena, who also belongs to Hindu 'Kurumans' Community. As a result of wedlock, the Petitioner has two sons, viz., Renesh and Danush and his two children were brought up as per Customs and Rites prevalent in the Hindu 'Kurumans' Community. The Petitioner and his children worship Lord Veerabadra, by breaking coconuts in their head.

3.The Petitioner had applied for Community Certificate for their children in the year 2010. His son, Renesh is a brilliant and dedicated student, who has secured 479 marks out of 500 marks, which is 95.8%. He opted for Physics, Chemistry, Botany and Maths group and joined S.R.V.Boys Higher Secondary School, Rasipuram. His medium of instruction is 'Tamil'. Because of his son's excellent academic records, he was granted scholarship by S.R.V.Boys Higher Secondary School. He did exceedingly well in his academic performance in 11th Standard.

4.At this stage, the Learned Counsel for the petitioner submits that the Petitioner's son Renesh, had applied for NEET (UG) - 2018, under 'ST' quota, as he belongs to Hindu 'Kurumans' Community. His entire School Records states that he belongs to 'ST' Community. As a matter of fact, after filing of the present Writ Petition, the Petitioner's son has qualified in the NEET Examination and is going to take part in the Second Counseling, which commences from 27.07.2018. His name is also reportedly figured in the Provisional List, as informed by the Learned Counsel for the Petitioner, before this Court.

5.It comes to be known that the Petitioner (being the father of Renesh), had filed W.P.No.6292 of 2018, before this Court, seeking for necessary direction to consider and pass

orders on his Application and Representation, by issuing 'ST' Community Certificate to and in favour of his said son Renesh. This Court on 26.3.2018 had disposed of the said Writ Petition, wherein at Paragraph No.4, it is observed as under:-

"4.The grievance expressed by the Petitioner is that, his son has applied for National Entrance cum Eligibility Test Examination (NEET Exam) under the ST Quota, which is scheduled to be held in the month of April, 2018, and before the conduct of the Examination, counselling would be held, and during counselling, obviously, his son is expected to produce necessary documents, especially, the Community Certificate, for, he has applied for the said Exam by claiming himself to be a ST candidate, (as noticed above) and if he does not produce the Community Certificate, he will not be treated as candidate falling under the ST quota, and as consequence thereof, he will lose concessions and other benefits, to which, he is entitled to, as ST candidate. Setting out all these grievance, the Petitioner submitted a representation in the recent past, i.e. On 09.03.2018. Since the said representation too evoked no response, the petitioner is constrained to approach this Court, by way of present Writ Petition, seeking for the aforementioned relief."

Ultimately, the said Writ Petition was disposed of by this Court by directing the Second Respondent therein to consider the Petitioner's Application, dated 10.02.2014, which was followed by Representation dated 09.03.2018 and pass appropriate orders on merits and in accordance with law, by issuing 'Community Certificate' to the Petitioner's son on or before 15.04.2018.

6.It is represented on behalf of the Petitioner that the Petitioner was subsequently directed, by means of a communication dated 28.3.2018, by the Second Respondent, to appear for an enquiry on 12.4.2018. Indeed the Petitioner had appeared and produced all relevant documents, including the 'Community Certificate' issued to his close blood relatives stating that they belong to Hindu 'Kurumans' Community, which is recognised as 'Scheduled Tribe' Community. Surprisingly, the Second Respondent, on 13.4.2018, had rejected the Petitioner's request for issuance of 'Community Certificate' to his children on the following grounds:-

"(a)that the school records of the Petitioner's brothers and sisters including that of Mr.Ramesh, reveal that they belong to Hindu-kurumbar Community and that the Petitioner's School Transfer Certificate cannot be taken into consideration;

(b) that the Petitioner's mother-in-law's Community is stated as Hindu-Kurumbar in her School records and hence the Transfer Certificate of the Petitioner's wife cannot be taken into consideration;

(c)that the school records of one Mr.Ramkumar's father and his uncle show that they belong to Hindu-Kurumbar Community and that the Petitioner have also failed to establish as to how Mr.Ramkumar is related to the Petitioner;

(d)that the transfer register of the schools in which the Petitioner's relatives have studied reflects that their community is Hindu-Kurumbar and that there are alternations and over-writings in the registers;

(e)that as per the Constitution (Schedule Tribes) Order 1950 Kurumbas are the Tribal Communities residing at Nilgiris only;

(f)that nowhere in District Census Handbook-Salem 1961 and the statistics available thereunder, it is mentioned that Hindu-Kurumans are living in Salem District."

7.The Learned Counsel for the Petitioner contends that the rejection Order dated 13.4.2018, passed by the Second Respondent, is assailed in the present Writ Petition on the ground that the Second Respondent has passed the impugned order hastily and without proper verification and appreciation of the documents produced by the Petitioner. In this connection, the Learned Counsel for the Petitioner projects an argument that the Second Respondent had blatantly rejected the School Records of the Petitioner, his Wife and Children, without proper and justifiable reasons.

8.Advancing her arguments, the Learned Counsel for the Petitioner proceeds to point out that the Second Respondent/Sub Collector, Mettur Dam, Salem District had erroneously rejected the Petitioner's claim for 'ST' Community Certificate for his

son on the ground that as per the District Census Handbook-Salem 1961 and the Statistics available thereunder, nowhere, it is mentioned that Hindu 'Kurumans' are living in Salem District, when the Second Respondent himself had issued 'Scheduled Tribe' Community Certificate to one Ramkumar, during the year 2013 and to the Petitioner's Paternal Uncle's children and Grand children, in the year 2013 and 14.

9.The Learned Counsel for the Petitioner brings it to the notice of this Court that the Second Respondent/Sub-Collector, Mettur Dam-1, Salem District, had overlooked an important fact that in the case of Mrs.Vani, (Petitioner's maternal cousin), who got admission into M.B.B.S course under the 'ST' category, and when the issue of genuineness of her 'ST' Community Certificate was raised, the Director, Tribal Research Centre, has given a finding that the 'Spot Enquiry' and the 'Anthropological Study' of the habitat, life style and cultural features reveal the fact that the said Mrs.Vani belongs to Hindu 'Kurumans ST' Community. On the basis of the Report, the Tamil Nadu State Level Scrutiny Committee Adi Dravidar and Tribal Welfare Department, declared that the 'ST' Community Certificate obtained by the said Mrs.Vani is genuine. This aspect of Mrs.Vani securing the Certificate was made mentioned in the Petitioner's Representation dated 09.03.2018 and the same was not considered.

10.The Learned Counsel for the Petitioner emphatically points out that if the 'Community Certificate' is not issued to and in favour of the petitioner's son Renesh, then the Petitioner's said son Renesh will be treated as a 'General Category' candidate and consequently will be deprived of the benefits that he is legally entitled to as a person belonging to a socially and economically backward community.

11.Admittedly, the Petitioner has preferred an Appeal on 16.4.2018 before the First Respondent/District Collector, Salem District and the same is pending.

12.The Learned Counsel for the Petitioner informs this Court that the Petitioner will be satisfied if the Appeal dated 16.4.2018 preferred by him, before the First Respondent/District Collector, Salem District, is directed to be disposed of by the First Respondent within a time frame to be determined by this Court.

13.Considering the fact that the Petitioner's Appeal dated 16.4.2018 is pending before the First Respondent/District Collector, Salem District and this Court bearing in mind the ingredients of G.O.(Ms) No.147, Revenue (RA-3(2)) Department, dated 17.03.2016, at this stage, simpliciter, on the basis of

equity, good conscience, fair play and even as a matter of prudent, directs the First Respondent/District Collector, Salem District, to immediately take up the Petitioner's Appeal dated 16.4.2018, diligently without any further loss of time and to dispose of the same swiftly, in a God Speed fashion (considering the fact that the Petitioner's son is to take part in the NEET Counselling 2018), ofcourse within a period of one week from the date of receipt of copy of this order without fail. It cannot be gainsaid that the First Respondent shall pass necessary reasoned Speaking Orders in a qualitative and quantitative manner, on the Petitioner's Appeal dated 16.4.2018, in a fair, just, unbiased and in a dispassionate manner, ofcourse, after providing adequate opportunity to the Petitioner to put forward his version. It is open to the First Respondent to provide a 'Personal hearing' to the Petitioner (if he makes a request in this regard) and also it is open to the Petitioner to produce the relevant records, other than the records produced by him on earlier occasion before the First Respondent and to seek redressal of his grievances in the manner known to Law and in accordance with Law.

With the above Observations/Directions, the Writ Petition stands disposed of. There is no order as to costs. Connected miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

msk

To

- 1.The District Collector,
Salem District,
Salem-1
- 2.The Sub-Collector,
Mettur Dam-1,
Salem District.
- 3.The Revenue Divisional Officer,
Mettur Dam-1.

4.The Tahsildar,
Kadayampatty.

5.The Director (NEET),
Central Board of Secondary Education,
National Eligibility cum Entrance Test Unit,
Shiksha Kendra-2-Community Centre,
Preet Vihar, Delhi-110 092 .

+lcc to M/S.K.Nithyashree, Advocate Sr.48715

W.P.No.11744 of 2018

srg 24/07/2018



WEB COPY