

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2018

CORAM:

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

W.P.No.24767 of 2018
and
W.M.P.No.28791 of 2018

S.Thamodharan

.. Petitioner

Vs.

1. The District Collector,
Dharmapuri District,
Dharmapuri.

2. The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District.

.. Respondents

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 relating to the impugned proceedings issued by the first respondent in Na.Ka.No.16079/2016(Ko3), dated 01.06.2017 confirming the impugned proceedings issued by the second respondent in Na.Ka.8481/2015/A4, dated 12.2015 and to quash the same and consequently direct the respondents to issue S.T.Kurumans Community Certificate in favour of petitioner's children T.Gayathri, T.Agathiyan and T.Sridharan, within a time frame to be fixed by this Court.

For petitioners : Mr.G.Sankaran

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

ORDER

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

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the first respondent in Na.Ka.No.16079/2016(Ko3), dated 01.06.2017 confirming the impugned proceedings issued by the second respondent in Na.Ka.8481/2015/A4, dated 12.2015 and to quash the same and consequently direct the respondents to issue S.T.Kurumans Community Certificate in favour of petitioner's

children T.Gayathri, T.Agathiyan and T.Sridharan, within a time frame to be fixed by this Court.

2. It is the case of the petitioner that he is having one daughter and two sons, by name T.Gayathri, T.Agathiyan and T.Sridharan undergoing school education. For the purpose of their further studies after school education and for employment, the Community Certificate is required for his children. When the Community Certificate issued in favour of one Thiru.P.Kumar, son of Thiru.A.Perumal, who is the petitioner's relative, was subjected to verification by the State Level Scrutiny Committee, orders were passed by the Committee on 04.02.2015 holding that Thiru.P.Kumar, son of Perumal, belongs to Hindu Kurumans Scheduled Tribe Community and thereby, the Community Certificate issued in his favour was declared to be genuine. Likewise, when the children of the said P.Kumar was not considered to be given Community Certificate by the respondents, he filed a Writ Petition in W.P.No.22665 of 2009 and this Court, by order dated 29.04.2010, by quashing the impugned order therein, directed the respondent to issue Community Certificate to the petitioner's son therein, namely K.Jeeva Anand as belonging to Kurumans Scheduled Tribe Community, within a stipulated time. On that basis, the Community Certificate was issued in favour of K.Jeeva Anand, son of P.Kumar by the competent authority.

3. It is the further case of the petitioner that when the petitioner's said relative's another son, namely P.Sakthivel, applied for Community Certificate for his children S.Anitha and Karun Kumar, the same was not considered and therefore, he filed W.P.No.13723 of 2015, in which, this Court, on 15.07.2015, directed the respondent to issue necessary Community Certificate to the children of the petitioner therein forthwith by referring to the fact that the Community Certificate issued in favour of his brother P.Kumar was already examined by the State Level Scrutiny Committee and his Community Certificate was declared to be genuine. On that basis, the respondents issued orders granting ST Community Certificate in favour of the children of P.Sakthivel.

4. Therefore, according to the petitioner, the petitioner's family members have already been granted Community Certificate to the effect that they belong to Kurumans ST Community. While so, when the petitioner submitted application claiming Community Certificate for his children T.Gayathri, T.Agathiyan and T.Sridharan, the same was not considered by the second respondent. Hence, the petitioner was constrained to file W.P.No.22813 of 2015 which was disposed of by this Court on 29.07.2015 by referring to ST Kurumans Community Certificate issued in favour of the relatives of the petitioner and further, the same was declared to be genuine by the State Level Scrutiny Committee, and this Court directed the authority concerned to

pass orders on the petitioner's application on merits and in accordance with law, after conducting enquiry as per the guidelines laid down by the Supreme Court in Kumari Madhuri Patil's case (Kumari Madhuri Patil and another Vs. Additional Commissioner (1994 (6) SCC 241), and to complete the exercise within a period of four weeks from the date of receipt of a copy of the order.

5. It is further stated by the petitioner that since the order was not passed by the authorities as directed by this Court on 29.07.2015, the petitioner filed Contempt Petition in Cont.P.No.2647 of 2015. During the pendency of the Contempt Petition, the second respondent passed an order dated Nil.12.2015, rejecting the claim of the petitioner, without adducing valid reasons. As against the order passed by the second respondent, the petitioner preferred an appeal petition before the first respondent immediately. However, the first respondent kept the appeal petition pending for long time and finally issued the impugned order on 01.06.2017 by reproducing what is stated by the Revenue Divisional Officer, without adjudicating any of the grounds raised in the appeal petition and also by referring to unconnected reasons and documents and also without even considering any of the Certificates issued in favour of the family members who are blood relatives, which had been confirmed by the State Level Scrutiny Committee. Hence the petitioner has filed this Writ Petition for the relief stated supra.

6. When the Writ Petition is taken up for consideration, learned counsel for the petitioner, by inviting the attention of this Court to the Genealogy (Family Tree) of the petitioner, submitted that the petitioner's relative's Community Certificate, was verified by the State Level Scrutiny Committee and based on the said verification, the petitioner's relative P.Sakthivel applied for the Community Certificate for his children and the same was issued. Learned counsel further submitted that though the Genealogy (Family Tree) which was produced before this Court, was not considered properly by the respondents and thus, the learned counsel for the petitioner sought for quashing the impugned order.

7. Learned counsel for the petitioner also invited the attention of this Court to an order passed by a Division Bench of this Court in W.P.Nos.32246 and 32247 of 2017, dated 21.12.2017 and submitted that in the said case with similar set of facts, this Court, by quashing the impugned order therein, directed the respondents therein to issue Community Certificate and hence, learned counsel for the petitioner prayed that similar order could be passed in this Writ Petition also.

8. However, the only ground raised by the petitioner is that the Genealogy (Family Tree) (blood relatives) of the petitioner was not properly considered by the respondents. The impugned order is passed as if the petitioner has not produced any documentary evidence showing that his blood relatives were issued with the Community Certificate. Learned counsel for the petitioner prayed that the impugned order may be quashed and the respondents may be directed to issue S.T. Kurumans Community Certificate to the children of the petitioner.

9. But this Court is not inclined to give any positive direction, since the grievance of the petitioner is that the Genealogy (Family Tree) was not considered by the respondents before passing the order. Accordingly, the impugned order is set aside and the matter is remitted back to the second respondent-RDO, who shall consider the application of the petitioner for issuance of Community Certificate to his children afresh. The second respondent-RDO shall consider the abovesaid Genealogy (Family Tree) of the petitioner and examine the relationship between the petitioner and the said P.Kumar, P.Sakthivel, A.Perumal, K.Jeeva Anand, etc., and after affording an opportunity of hearing to the petitioner, pass appropriate orders within eight weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner and it is for the second respondent-RDO to analyse the same before passing order. Ultimately, after complying with the above direction, if the Community Certificates are issued by the respondents to the petitioner's children, the same are subject to verification at a later point of time by the State Level Scrutiny Committee.

10. With the above observations and directions, the Writ Petition is allowed. No costs. Consequently, W.M.P. is closed.

-s/d-
Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

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To

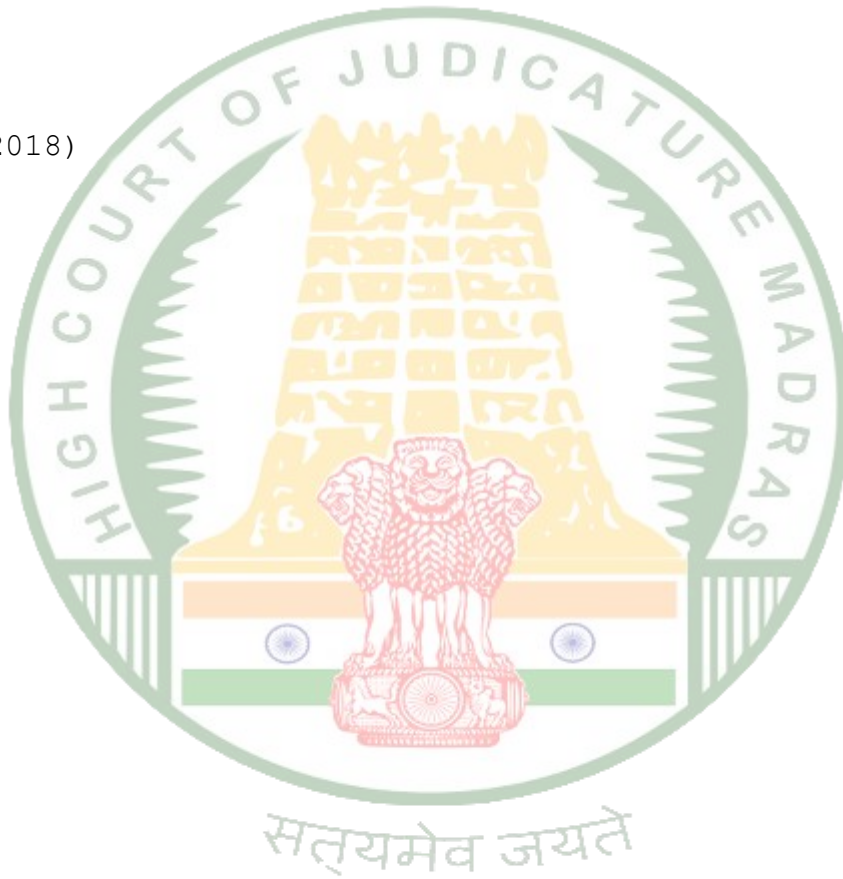
1. The District Collector,
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Dharmapuri.

2. The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District.

+1 CC to Mr.G. Sankaran, Advocate sr 72613

W.P.No.24767 of 2018

SP(30/10/2018)



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