

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.07.2018

Coram:

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

W.P.No.18397 of 2018

T.Jayasudha ... Petitioner
vs.

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

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus to direct the Respondent to issue Hindu Kurumans Scheduled Tribe Community Certificate in favour of the Petitioner (T.Jayasudha) and in favour of Petitioner's minor children viz., V.Pavithra and V.Avandhika, respectively, that they belong to Hindu Kurumans Scheduled Tribe Community, based on the Scheduled Tribe Community Certificate issued in favour of the Petitioner's husband and by considering the application/representation submitted by the Petitioner dated 20.02.2018, within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.S.Kamalesh Kannan,G.A.

ORDER

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

Heard the Learned Counsel for the Petitioner and the Learned Government Advocate for the Respondent.

2.According to the Petitioner, she belongs to 'Hindu Kurumans' community, which is classified as Scheduled Tribe. She possesses a qualification of X Standard and she is married to one S.Vajjiram and has two children, viz., V.Pavithra and

V.Avandhika, studying in XII and X Standard, respectively. For the purpose of further studies after school education and for employment, she requires a Community Certificate for herself as well as for her children.

3.The stand of the Petitioner is that her husband S.Vajjiram belongs to Hindu Kurumans ST Community and further that her husband was issued with Hindu Kuruman ST Community (bearing Certificate No.2640809, dated 28.12.1995) by the Revenue Divisional Officer, Dharmapuri, after due enquiry and verification. The Petitioner's paternal uncle B.Tamilmani, son of Beeran was also issued with Hindu Kurumans ST Community Certificate by the Revenue Divisional Officer, Dharmapuri, on 30.08.1994 and the same was scrutinised by the Tamil Nadu State Level Scrutiny Committee, Chennai and after careful examination, the Committee had determined that B.Tamilmani belongs to Hindu Kurumans (ST) Community. Apart from that, her another paternal uncle's son T.Manoj, son of Tamilarasan, was also issued with Hindu Kurumans Scheduled Tribe Community Certificate by the Revenue Divisional Officer, Harur, after due enquiry and on verification of records. The Petitioner submitted an Application before the Respondent seeking to issue Community Certificate in her favour and in favour of her two children, viz., V.Pavithra and V.Avandhika, on 20.02.2018.

4.The grievance of the Petitioner is that till date no orders have been passed on her Application. Hence, she has filed the present Writ Petition.

5.Admittedly, the Petitioner's Application dated 20.02.2018, is pending for nearly five months. It cannot be gainsaid that if any doubt creeps in the mind of the appropriate/competent authority as to the genuineness of the Community Certificate issued in favour of the husband of the Petitioner and her relatives, then it is always open to the Competent Authority to refer the matter for consideration by the State Level Scrutiny Committee.

6.In the instant case, the Application of the Petitioner dated 20.02.2018 is pending for nearly five months and in this connection, the Respondent's attention is drawn to the decision of the Hon'ble Supreme Court between Kumari Madhuri Patil and Another vs. Additional Commissioner, Tribal Development and Others (1994) 6 Supreme Court Cases 241, at Special pages 255 and 256, whereby and whereunder it is observed as follows:

"13. The admission wrongly gained or appointment wrongly obtained on the basis of false social status certificate necessarily has the effect of depriving the genuine Scheduled Castes or

Scheduled Tribes or OBC candidates as enjoined in the Constitution of the benefits conferred on them by the Constitution. The genuine candidates are also denied admission to educational institutions or appointments to office or posts under a State for want of social status certificate. The ineligible or spurious persons who falsely gained entry resort to dilatory tactics and create hurdles in completion of the inquiries by the Scrutiny Committee. It is true that the applications for admission to educational institutions are generally made by a parent, since on that date many a time the student may be a minor. It is the parent or the guardian who may play fraud claiming false status certificate. It is, therefore, necessary that the certificates issued are scrutinised at the earliest and with utmost expedition and promptitude. For that purpose, it is necessary to streamline the procedure for the issuance of social status certificates, their scrutiny and their approval, which may be the following:

1. The application for grant of social status certificate shall be made to the Revenue Sub-Divisional Officer and Deputy Collector or Deputy Commissioner and the certificate shall be issued by such officer rather than at the Officer, Taluk or Mandal level.

2. The parent, guardian or the candidate, as the case may be, shall file an affidavit duly sworn and attested by a competent gazetted officer or non-gazetted officer with particulars of castes and sub-castes, tribe, tribal community, parts or groups of tribes or tribal communities, the place from which he originally hails from and other particulars as may be prescribed by the Directorate concerned.

3. Application for verification of the caste certificate by the Scrutiny Committee shall be filed at least six months in advance before seeking admission into educational institution or an appointment to a post.

4. All the State Governments shall constitute a Committee of three officers, namely, (1) an Additional or Joint Secretary or any officer higher in rank of the Director of the department concerned, (11) the Director, Social Welfare/Tribal

Welfare/Backward Class Welfare, as the case may be, and (III) in the case of Scheduled Castes another officer who has intimate knowledge in the verification and issuance of the social status certificates. In the case of the Scheduled Tribes, the Research Officer who has intimate knowledge in identifying the tribes, tribal communities, parts of or groups of tribes or tribal communities.

5. Each Directorate should constitute a vigilance cell consisting of Senior Deputy Superintendent of Police in over-all charge and such number of Police Inspectors to investigate into the social status claims. The Inspector would go to the local place of residence and original place from which the candidate hails and usually resides or in case of migration to the town or city, the place from which he originally hailed from. The vigilance officer should personally verify and collect all the facts of the social status claimed by the candidate or the parent or guardian, as the case may be. He should also examine the school records, birth registration, if any. He should also examine the parent, guardian or the candidate in relation to their caste etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all particulars as envisaged in the pro forma, in particular, of the Scheduled Tribes relating to their peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. by the castes or tribes or tribal communities concerned etc.

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6. The Director concerned, on receipt of the report from the vigilance officer if he found the claim for social status to be "not genuine" or 'doubtful' or spurious or falsely or wrongly claimed, the Director concerned should issue show-cause notice supplying a copy of the report of the vigilance

officer to the candidate by a registered post with acknowledgement due or through the head of the educational institution concerned in which the candidate is studying or employed. The notice should indicate that the representation or reply, if any, would be made within two weeks from the date of the receipt of the notice and in no case on request not more than 30 days from the date of the receipt of the notice. In case, the candidate seeks for an opportunity of hearing and claims an inquiry to be made in that behalf, the Director on receipt of such representation/reply shall convene the committee and the Joint/Additional Secretary as Chairperson who shall give reasonable opportunity to the candidate/parent/guardian to adduce all evidence in support of their claim. A public notice by beat of drum or any other convenient mode may be published in the village or locality and if any person or association opposes such a claim, an opportunity to adduce evidence may be given to him/it. After giving such opportunity either in person or through counsel, the Committee may make such inquiry as it deems expedient and consider the claims vis-a-vis the objections raised by the candidate or opponent and pass an appropriate order with brief reasons in support thereof.

7. In case the report is in favour of the candidate and found to be genuine and true, no further action need be taken except where the report or the particulars given are procured or found to be false or fraudulently obtained and in the latter event the same procedure as is envisaged in para 6 be followed.

8. Notice contemplated in para 6 should be issued to the parents/guardian also in case candidate is minor to appear before the Committee with all evidence in his or their support of the claim for the social status certificates.

9. The inquiry should be completed as expeditiously as possible preferably by day-to-day proceedings within such period not exceeding two months. If after inquiry, the Caste Scrutiny Committee finds the claim to be false or spurious, they should pass an order cancelling the certificate issued and confiscate the same. It should communicate within one month from the date of the conclusion of the proceedings the result of enquiry to the

parent/guardian and the applicant.”
whereby and whereunder, it is mentioned as follows:

7.Suffice it for this Court to point out that without any rhyme or reason, the Application of the Petitioner, dated 20.02.2018, is pending before the Respondent and as such, this Court deems it fit and proper in directing the Respondent to look into the Application of the Petitioner with all seriousness and earnestness within a period of one week from the date of receipt of copy of this Order. Thereafter, the Respondent is directed to dispose of the said Application of the Petitioner dated 20.02.2018, by passing a reasoned speaking Order, within a period of four weeks, specifying the outline of process of reasoning in a quantitative and qualitative terms, of course, after providing necessary opportunity to the Petitioner and after adhering to the principles of natural justice. In case, if the Petitioner requires a personal hearing, that may also be granted by the Respondent and the Respondent is directed to pass orders within the time adumbrated by this Court in a fair, free, just, dispassionate and unbiased manner, untrammelled and uninfluenced with any of the observations made by this Court in this Writ Petition.

With the above observations/Directions, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS IX)

//True copy//

Sub Assistant Registrar

msk

To

The Revenue Divisional Officer,
Harur, Dharmapuri District

+1cc to Mr.G.Sankaran, Advocate SR.No.48290

W.P.No.18397 of 2018

GN (24/07/2018)