

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

AND

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

WRIT PETITION No.33434 of 2017

D.Karunanithi

... Petitioner

Vs.

The Sub-Collector,
Tirupattur,
Vellore District.

... Respondent

Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings in Mu.Mu.A2/5700-A/2015 and Mu.Mu.A2/5700/2015, dated 28.11.2017 on the file of the Respondent, quash the same and direct the Respondent to issue Community Certificate to the children of the Petitioner viz. (i) K.Kiran Kishore and (ii) K.Sushma that they belong to Kurumans (ST) Community based upon the Community Certificate already issued to the Petitioner and his brother, which was also verified by the State Level Scrutiny Committee in Proceedings No.3277/CV.2/2010-11, dated 30.03.2015.

For Petitioner : Mr.V.Elangovan

For Respondent : Mr.K.Rajendra Prasad,
Additional Government Pleader

सत्यमेव जयते
O R D E R

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

Petitioner has come up with the present Writ Petition seeking to quash the proceedings in Mu.Mu.A2/5700-A/2015 and Mu.Mu.A2/5700/2015, dated 28.11.2017 on the file of the Respondent and for a direction to the Respondent to issue Community Certificate to his children, viz. (i) K.Kiran Kishore and (ii) K.Sushma that they belong to Kurumans (ST) Community, based on the Community Certificate already issued to him and his brother, which was also verified by the State Level Scrutiny Committee vide Proceedings No.3277/CV.2/2010-11, dated 30.03.2015.

2. According to the Petitioner, he belongs to 'Kurumans Community', which is classified as Scheduled Tribe Community. He obtained Community Certificate from the Tahsildar, Perambur, Chennai on 20.06.1989 and that his own brother, D.Kuppan also obtained Community Certificate from the Tahsildar, Tirupattur on 23.06.1977. The above Certificate was subjected to verification by the State Level Scrutiny Committee and it was found to be genuine by the Committee on 30.03.2015.

3. It is further stated by the Petitioner that he has one son and one daughter, viz. K.Kiran Kishore (aged 17 years) and K.Sushma (aged 13 years). The Petitioner preferred an Application to the District Collector, Chennai on 17.02.2016, requesting to issue Community Certificate to his children that they belong to Kurumans (ST) Community. Along with the said Application, the Petitioner has enclosed the following documents:

- (i) The Petitioner's Community Certificate
- (ii) Community Certificate of the Petitioner's own brother D.Kuppan
- (iii) State Level Scrutiny Committee Report of his own brother, D.Kuppan
- (iv) Community Certificate of his own brother D.Paneerselvam and sister S.Amutha
- (v) Community Certificate of his brother's children viz.
 - (i) K.Premalatha (ii) K.Nandhini and (iii) K.Nithis Kumar
- (vi) Legal Heir Certificate

4. Thereafter, on 11.04.2016, the District Collector, Chennai forwarded the Petitioner's Application to the Tahsildar, Ayanavaram, Chennai to conduct an enquiry and submit a Report. Since the District Collector, Chennai did not issue Community Certificate to his son, the Petitioner filed a Writ Petition before this Court in W.P.No.18318 of 2016 for a direction to issue Community Certificate on the basis of the Community Certificate issued to the Petitioner and his family members. By an order dated 26.05.2016, the said Writ Petition was disposed of with the following direction:

"7. In the result, the Writ Petition is disposed of and the 1st Respondent is directed to consider the claim of the Petitioner for issuance of the Community Certificate to his children, namely, K.Kiran Kishore and K.Sushma, as expeditiously as possible and not later than three weeks from the date of receipt of a copy of this order and communicate the decision

taken, to the Petitioner. ..."

5. Pursuant thereto, the Revenue Divisional Officer, Chennai, passed an order on 29.06.2016, holding as under:

"6(c). ... Based on the Report of the Tahsildar and the documentary evidences submitted by the applicant, it is concluded that the applicant Thiru. D.Karunanithi belongs to Scheduled Tribe "Hindu Kurumans" Community. The permanent abode of the applicant and that of his parents and ancestors is Thiriyalam, T.Veerapalli Village, Natrampalli Taluk, Vellore District and therefore, as G.O.(Ms) No.61, Adi Dravidar and Tribal Welfare (ADW-10) Department, dated 04.04.2005, the children of the applicant are entitled to claim the status of Scheduled Tribe from the Revenue Divisional Officer, Tirupattur, Vellore District."

6. Thereafter, the Petitioner preferred an Application to the Respondent, however, the same was rejected by the Respondent, by an order dated 28.11.2017, holding that the Petitioner does not belong to Kurumans (ST) Community. Assailing the said order, the Petitioner has come up with the present Writ Petition.

7. When the matter is taken up for hearing, learned counsel for the Petitioner submitted that the Community Certificate of the Petitioner's own brother, viz. D.Kuppan was found to be genuine by the State Level Scrutiny Committee and hence, there cannot be any impediment for the Respondent to issue Community Certificate to the Petitioner's children, as per his claim.

8. Learned Additional Government Pleader by filing a detailed counter, opposed to the prayer sought by the Petitioner. He submitted that the Community Certificate said to be issued to the Petitioner's brother, D.Kuppan, S/o.Dhorali by the Tahsildar, Tirupattur, on 23.06.1977 was issued based on G.O.Ms.No.388, Social Welfare Department, dated 06.05.1977. The said Government Order dated 06.05.1977 that declared "Kurumans", "Kurumba" or "Kurumban" to be one and the same Community was later cancelled vide G.O.Ms.No.748, Social Welfare Department, dated 27.10.1977. Thus, he opposed to the entitlement of the relief sought by the Petitioner in the Writ Petition.

9. Be that as it may, as the Petitioner's own brother viz. D.Kuppan's Community Certificate is held to be genuine by the State Level Scrutiny Committee and the Petitioner has also been

issued with Kurumans (ST) Community Certificate, there is no impediment for the Respondent in issuing Community Certificate to the Petitioner's children as claimed by him.

10. Considering the facts and circumstances of the case and the submissions made by the learned counsel on either side, the impugned order dated 28.11.2017 passed by the Respondent vide Proceedings in Mu.Mu.A2/5700-A/2015 and Mu.Mu.A2/5700/2015, is set aside. The Respondent/Sub-Collector, Tirupattur, Vellore District is directed to issue Community Certificate to the Petitioner's children, viz. (i) K.Kiran Kishore and (ii) K.Sushma that they belong to Kurumans (ST) Community, based on the Community Certificate already issued to the Petitioner and his brother, D.Kuppan, as early as possible, and in any case, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that after issuance of Community Certificate to the Petitioner's children, the Respondent is at liberty to send the same for verification to the State Level Scrutiny Committee.

The Writ Petition is allowed with the above direction. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

(aeb)

To:

The Sub-Collector,
Tirupattur,
Vellore District.

+1cc to Mr.S.Doraisamy, Advocate, S.R.No.67515
+1cc to the Government Pleader, S.R.No.68175

W.P.No.33434 of 2017

rrs 11/10/2018

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