

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2018

CORAM:

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

WRIT PETITION No.26122 of 2018

J.Sekar

... Petitioner

Vs.

1. The Collector,
Salem, Salem District.

2. The Sub-Collector,
Mettur, Salem District.

... Respondents

Writ Petition 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 order of rejection passed in Proceedings in Na.Ka.No.260/2018/ThiA, dated 28.08.2018, on the file of the 1st Respondent, confirming the order of rejection passed in Proceedings in Na.Ka.No.1449/2016/T, dated 16.06.2017 on the file of the 2nd Respondent, quash the same and direct the 2nd Respondent to issue Community Certificate to the Petitioner's two sons, viz. (i) S.Bill Gates and (ii) S.Sanjeev Arora that they belong to Kurumans (ST) Community, based upon the Community Certificate already issued to the Petitioner and his family members.

For Petitioner : Mr.V.Elangovan

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

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 call for the records relating to the order of rejection passed in Proceedings in Na.Ka.No.260/2018/ThiA, dated 28.08.2018, on the file of the 1st Respondent, confirming the order of rejection passed in Proceedings in Na.Ka.No.1449/2016/T, dated 16.06.2017 on the file of the 2nd Respondent, quash the same and for a direction to the 2nd Respondent to issue Community Certificate to his two sons, viz.

(i) S.Bill Gates and (ii) S.Sanjeev Arora that they belong to Kurumans (ST) Community, based on the Community Certificate already issued to him and his family members.

2. According to the Petitioner, he belongs to Kurumans Community, which is a Scheduled Tribe Community. He is working as a Headmaster in Government Tribal Residential Middle School, Dharmapuri and he obtained Community Certificate from the Tahsildar, Omalur on 18.11.1988. He has further stated that all his family members do possess valid Kurumans (ST) Community Certificate and the details are as follows:

(i) The Petitioner's Community Certificate, dated 18.11.1988.

(ii) Community Certificate of the Petitioner's father, dated 17.03.1982, 17.03.1984 and 18.06.1987.

(iii) Community Certificate of J.Malliga, dated 18.11.1988, who is the Petitioner's younger sister.

(iv) Community Certificate of J.Suseela, dated 30.12.1988, who is the Petitioner's younger sister.

(v) Community Certificate of J.Murugan, dated 02.01.1989, who is the Petitioner's younger brother.

(vi) Community Certificate of S.Nithya, dated 24.08.2015, who is the Petitioner's sister's daughter.

(vii) Community Certificate of S.Nishakumari, dated 24.08.2015, who is the Petitioner's sister's daughter.

(viii) Community Certificate of S.Gogula Gopalakrishnan, dated 24.08.2015, who is the Petitioner's sister's son.

(ix) Community Certificate of G.Vani, dated 31.12.1994, who is the Petitioner's father's own brother's daughter.

(x) State Committee Report of G.Vani, dated 28.04.2008, who is the Petitioner's father's own brother's daughter.

3. Enclosing the Community Certificates of his family members, the Petitioner preferred an Application to the 2nd Respondent on 18.09.2015, requesting to issue Community Certificate to his children that they belong to Kurumans (ST) Community. Since no order was passed by the 2nd Respondent, the Petitioner preferred W.P.No.5224 of 2017 and by an order dated 02.03.2017, this Court directed the 2nd Respondent therein to consider and pass orders on the Petitioner's Application, on merits and in accordance with law, within a period of three months.

4. Pursuant thereto, the 2nd Respondent passed an order on 16.06.2017, rejecting the Petitioner's application, holding that he does not belong to Kurumans Community. Against the said order of rejection, the Petitioner filed W.P.No.1551 of 2018 and this Court, by an order dated 25.01.2018 directed the Petitioner to approach the Appellate Authority, i.e. the 1st Respondent herein, within a period of two weeks. Accordingly, the Petitioner preferred an Appeal to the 1st Respondent on 27.02.2017. However, without any enquiry, the 1st Respondent rejected the Petitioner's Appeal on 28.08.2018, stating that the Petitioner and his relatives belong to "Kurumbar" Community. Aggrieved by the same, the Petitioner has filed the present Writ Petition.

5. Learned counsel for the Petitioner submitted that when the Petitioner and his family members possess a valid Community Certificate, the Petitioner is entitled to obtain Community Certificate for his children without any further enquiry.

6. Heard the learned counsel on either side and perused the material documents available on record.

7. Be that as it may, considering the facts and circumstances of the case, the impugned order dated 28.08.2018 passed by the 1st Respondent vide proceedings in Na.Ka.No.260/2018/ThiA, confirming the order of rejection dated 16.06.2017 passed by the 2nd Respondent in Na.Ka.No.1449/2016/T, is set aside. The 2nd Respondent/Sub-Collector, Mettur, Salem District, is directed to issue Community Certificate to the Petitioner's children, viz. (i) S.Bill Gates and (ii) S.Sanjeev Arora, based on the Community Certificate already issued to the Petitioner and his family members, as early as possible, and in any case, within a period of six weeks from the date of receipt of a copy of this order.

8. We make it clear that after issuance of Community Certificates to the Petitioner's children, the 2nd Respondent is at liberty to send the same for verification to the State Level Scrutiny Committee.

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

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

aeb

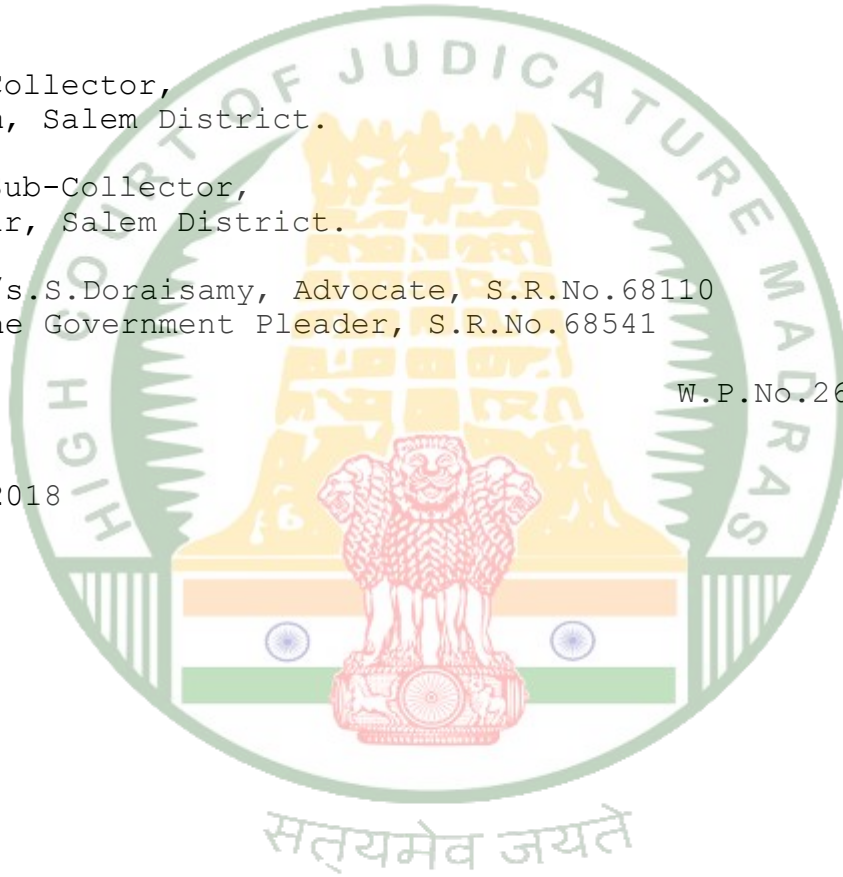
To:

1. The Collector,
Salem, Salem District.
2. The Sub-Collector,
Mettur, Salem District.

+1cc to M/s.S.Doraisamy, Advocate, S.R.No.68110
+1cc to the Government Pleader, S.R.No.68541

W.P.No.26122 of 2018

CS/09/10/2018



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