

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2018

CORAM:

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

W.P.No.26979 of 2018
and
W.M.P.No.31362 of 2018

L.Nagarajan

.. Petitioner

Vs.

1. The State Level Caste Scrutiny Committee,
Rep. by its Chairman and Secretary,
Government of Tamil Nadu,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavignar Maligai,
Secretariat, Chennai-600 009.

2. The Sub-Collector/Revenue Divisional Officer,
Tirupathur,
Vellore 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 order dated 14.12.2017 passed in Mu.Mu.A2/1715/2014, on the file of the second respondent and to quash the same and to direct the second respondent to issue Community Certificate to the petitioner as belonging to "Hindu Kurumans Scheduled Tribe Community" based on the order of the first respondent, dated 30.03.2015 passed in Proceedings No.3053/C.V-2/2015-5, within a time frame as may be fixed by this Court.

For petitioner : Mr.S.Prabakaran, Senior Counsel for
M/s.W.M.Abdul Majeed

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 this Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order dated 14.12.2017 passed in

Mu.Mu.A2/1715/2014, on the file of the second respondent and to quash the same and to direct the second respondent to issue Community Certificate to the petitioner as belonging to "Hindu Kurumans Scheduled Tribe Community" based on the order of the first respondent, dated 30.03.2015 passed in Proceedings No.3053/C.V-2/2015-5, within a time frame as may be fixed by this Court.

2. It is the case of the petitioner that he belongs to Hindu Kurumans, which is one of the Communities listed as a Scheduled Tribe under the Constitution (Scheduled Tribes) Order, 1950, passed by the President by virtue of the powers conferred on him under Article 342 of the Constitution of India and listed as such under Central Act 108 of 1976. The petitioner's father's elder brother's son G.Sivaraj's community status as belonging to Hindu Kurumans Scheduled Tribe Community was confirmed by order dated 02.05.2007 passed by the District Level Vigilance Committee, Vellore. Pursuant to the same, the said G.Sivaraj was issued with a provisional Community Certificate by the second respondent as belonging to the Hindu Kurumans Scheduled Tribe Community. He filed W.P.Nos.16751 and 16752 of 2009 for issuance of permanent Community Certificate for his service benefits, as he is employed in the Registration Department and to fix his seniority in his service and also to grant the benefits as prayed for therein. A Division Bench of this Court, by order dated 29.01.2010, allowed the said Writ Petition in W.P.No.16751 of 2009 for issuance of permanent Community Certificate for the said G.Sivaraj, while issuing direction in the other W.P.No.16752 of 2009. Accordingly, the said G.Sivaraj was issued with a permanent Community Certificate by the second respondent herein as belonging to the Hindu Kurumans Scheduled Tribe Community. The said G.Sivaraj filed another Writ Petition in W.P.No.18797 of 2011 seeking Community Certificate for his daughters Tejashwini and Rajadarshini. A Division Bench of this Court, by order dated 20.09.2011, directed the second respondent to issue the Community Certificate in favour of the children of the said G.Sivaraj. Accordingly, the children of the said Sivaraj were issued with permanent Community Certificate as belonging to the Hindu Kurumans Scheduled Tribe Community by the second respondent.

3. It is further alleged by the petitioner that based on the abovesaid order issued in favour of the petitioner's blood relative G.Sivaraj, who is the petitioner's father's elder brother's son, the petitioner applied for Community Certificate for his children T.N.Atheswar and T.N.Anilesh on 09.08.2010 and since no order was passed by the second respondent, the petitioner filed W.P.No.9682 of 2014, in which, a Division Bench of this Court, by order dated 03.04.2014, directed the second respondent to consider and pass orders on the said application. Thereafter, the second respondent, without any proper verification of the petitioner's culture, customs and traits and

without considering the fact that the blood relative G.Sivaraj and his children were already issued with the Community Certificate as belonging to Hindu Kurumans Scheduled Tribe Community by the second respondent himself, rejected the claim of the writ petitioner by order dated 18.08.2014, against which, the petitioner again filed W.P.No.32001 of 2014, in which, a Division Bench of this Court, by order dated 23.12.2014, set aside the order of the second respondent and remanded the matter to the first respondent to consider the petitioner's case and pass appropriate orders. The first respondent-Committee, by order dated 30.03.2015, after careful consideration and considering the views of the Anthropologist, held that the petitioner belongs to Scheduled Tribe "Hindu Kurumans Community" and recommended to the second respondent to issue the Scheduled Tribe Hindu Kurumans Community Certificate to the petitioner's children named above.

4. It is also the case of the petitioner that even during September 2014, the petitioner submitted an application on behalf of his elder brother L.Sivakumar and his children Balaji, Shalini and Kavitha, seeking Hindu Kurumans Scheduled Tribe Certificate for them. Since no order was passed on the same, the petitioner along with his brother and his children, filed W.P.No.33060 of 2016 seeking for a direction to issue Community Certificate as belong to Hindu Kurumans Scheduled Tribe Community. A Division Bench of this Court, by order dated 21.09.2016 in W.P.No.33060 of 2016, directed the second respondent to do the needful in issuing the Community Certificate within a period of one month. The petitioner was also issued with a Relationship Certificate, dated 16.03.2015 by the Tahsildar, Natrampalli, clearly indicating the relationship between the aforesaid Sivaraj and the petitioner. Similarly, another Relationship Certificate was issued by the Tahsildar, clearly indicating the blood relationship between the petitioner and his brother.

5. It is also further stated by the petitioner without considering the fact that the first respondent-State Level Scrutiny Committee, by order dated 30.03.2015, has held that the petitioner belongs to Hindu Kurumans Scheduled Tribe Community, the second respondent has passed the impugned order, dated 14.12.2017. The conclusion arrived at by the second respondent that the petitioner does not belong to Kurumans Scheduled Tribe Community and he only belongs to Kurumba MBC Community, is against the said conclusion arrived at by the first respondent-Committee by order dated 30.03.2015. Hence, the petitioner has filed the present Writ Petition for the relief stated supra.

6. Learned Senior Counsel for the petitioner invited the attention of this Court to the order passed by the District Vigilance Committee, dated 02.05.2007, in which the Community status of the petitioner's relative G.Sivaraj as well as the Community Certificate issued thereunder, was found to be

genuine. Hence, learned Senior Counsel appearing for the petitioner submitted that without considering the above discussed documents properly, the impugned order has been passed and hence, he prayed for allowing the Writ Petition.

7. Heard both sides and perused the materials available on record.

8. On a perusal of the above discussed documents, and the documents enclosed along with the typed set of papers filed along with the Writ Petition, it is clear that the impugned order passed by the second respondent is not sustainable. Hence, the impugned order is set aside. The second respondent is directed to issue Community Certificates as prayed for by the petitioner and also to his children. It is made clear that this order will not prevent the second respondent to send the Community Certificates after issuing the same as directed above, to the first respondent-State Level Scrutiny Committee for verification.

9. With the above observations, the Writ Petition is disposed of. No costs. Consequently, W.M.P. is closed.

Sd/-

Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

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To

1. The Chairman and Secretary,
The State Level Caste Scrutiny Committee,
Government of Tamil Nadu,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavignar Maligai,
Secretariat, Chennai-600 009.

2. The Sub-Collector/Revenue Divisional Officer,
Tirupathur,
Vellore District.

+1cc to Mr.W.M.Abdul Majeed, Advocate SR.No.75518

+1cc to Government Pleader SR.No.78298

W.P.No.26979 of 2018

KJF(CO)
GMY(29/11/2018)