

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

AND

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

WRIT PETITION No.27110 of 2018

R.Pushpalatha

... Petitioner

Vs.

The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District.

... Respondent

Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the Respondent to issue Community Certificate to the sons of the Petitioner, viz. R.Sethu and R.Subash that they belong to Kurichchan (ST) Community based upon the Community Certificate already issued to the Petitioner's own brother and close blood relatives.

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 a direction to the Respondent to issue Community Certificate to his sons, viz. R.Sethu and R.Subash that they belong to Kurichchan (ST) Community based upon the Community Certificate already issued to his own brother and close blood relatives.

2. According to the Petitioner, she belongs to Kurichchan Community, which is a Scheduled Tribe Community. On 22.11.2010, the Petitioner preferred an Application to the Respondent requesting to issue ST Community Certificate to her children, R.Sethu and R.Subash. Since her Application was not disposed of, on behalf of her minor children, the Petitioner filed a Writ Petition in W.P.Nos.20110 and 20119 of 2012 for a direction to pass orders on her Application. On 30.07.2012, this Court directed the Respondent to dispose of the Petitioner's

Application within a period of eight weeks. Since no orders were passed by the Respondent, the Petitioner made an Application to the Respondent on 27.08.2014 enclosing a Sworn Affidavit and the following documents, in support of her claim.

(i) Petitioner's Transfer Certificate, in which, her Community is entered as 'Kurichchan'

(ii) Community Certificate of the Petitioner's own brother Pushpakumar

(iii) Community Certificate of Shanti, who is the Petitioner's husband's own brother's daughter

(iv) The Anthropological Report of Dr.Jakka Parthasarathy, which shows that Kurichchan Community people are residing in Jakkampatti Village.

3. However, the Respondent passed an order on 22.06.2015 rejecting the Petitioner's Application holding that they belong to Kunjigar Community. Challenging the said order, the Petitioner filed W.P.No.21320 of 2015 and this Court, by an order dated 16.07.2015, set aside the order dated 22.06.2015 passed by the Respondent and directed the Respondent to issue necessary Community Certificates to the children of the Petitioner, preferably within a period of one week from the date of receipt of a copy of the order.

4. Thereafter, the Respondent issued a notice to the Petitioner to appear for an enquiry to be held on 28.09.2015. The Petitioner appeared for the enquiry and produced her Community Certificate. On the same day, the Respondent, without any further enquiry, passed an order rejecting her claim holding that during the enquiry, it was found that the Petitioner belongs to Kunjiliar @ Kunjigar Community, and that in the entire Jakkampatti Village, no Kurichchan Community people are residing. Hence, aggrieved by the same, the Petitioner is before this Court.

5. Learned counsel for the Petitioner submitted that when the Petitioner and her close relatives possess a valid Community Certificate to the effect that they belong to Kurichchan (ST) Community, there is no impediment for the Respondent to issue Community Certificates to his children to that effect.

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

7. Considering the facts and circumstances of the case and taking into account the submissions made by the learned counsel on either side, we are of the opinion that since Kurichchan (ST) Community Certificates were issued to the Petitioner and her close relatives, there is no hurdle for the Respondent in issuing Community Certificate to her children, as sought for by the Petitioner.

8. Accordingly, we direct the Respondent/Revenue Divisional Officer, Dharmapuri, to issue Kurichchan (ST) Community Certificate to the Petitioner's children (i) R.Sethu and (ii) R.Subash, within a period of six weeks from the date of receipt of a copy of this order. We make it clear that after issuance of Community Certificates to the Petitioner's children, the 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-VIII)

//True copy//

Sub Assistant Registrar

(aeb)

To:

The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District.

+1cc to M/s.S.Doraisamy, Advocate SR.No.70996

+1cc to Government Pleader SR.No.71451

GMV (23/10/2018)

W.P.No.27110 of 2018