

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.27116 of 2018

L.Devan

... 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 Petitioner's children, D.Sivasankari and D.Sivaguru that they belong to Kurichchan (ST) Community based upon the Community Certificates already issued to the Petitioner.

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 children, D.Sivasankari and D.Sivaguru that they belong to Kurichchan (ST) Community based upon the Community Certificates already issued to him.

2. According to the Petitioner, he belongs to Kurichchan Community, which is classified as Scheduled Tribe Community. The Petitioner obtained Community Certificate from the Tahsildar, Palacode on 26.06.1981 stating that he belongs to Hindu, Kurichchan (ST) Community. Again, on 24.12.1988, he obtained Community Certificate from the Tahsildar, Palacode stating that he belongs to Hindu, Kurichchan (ST) Community.

3. On 31.03.2008, the Petitioner preferred an Application to the Respondent requesting to issue ST Community Certificate to his children, D.Sivasankari and D.Sivaguru. Since no order

was passed by the Respondent, the Petitioner filed a Writ Petition in W.P.No.29393 of 2013 and this Court, by an order dated 29.10.2013, directed the Respondent to consider his Application dated 31.03.2008 and the reminder dated 21.05.2013 and pass orders on merits within a period of two months.

4. Thereafter, the Respondent issued a Notice calling upon the Petitioner to appear for an enquiry to be held on 13.12.2013. Accordingly, the Petitioner appeared for the Enquiry and produced the following Certificates.

(i) Petitioner's Community Certificate issued by the Tahsildar, Palacode that the Petitioner belongs to Kurichchan Community on 26.06.1981;

(ii) The Petitioner's School Transfer Certificate, dated 19.03.1983, in which, his Community is stated as Kurichchan.

(iii) Community Certificate issued by the Tahsildar, Palacode on 24.12.1988.

5. Pursuant thereto, the Respondent herein passed an order on 13.01.2014 rejecting the Petitioner's Application stating that the Petitioner does not belong to Kurichchan Community. Against the said order, the Petitioner filed W.P.No.5470 of 2014 and this Court, by an order dated 27.02.2014, set aside the order of rejection and remitted the matter to the Respondent to consider the request of the Petitioner seeking issuance of Community Certificates to his children based on the Certificate already obtained by him.

6. However, without furnishing any Report, the Respondent passed an order on 21.04.2014 rejecting the Petitioner's claim. Challenging the same, the Petitioner filed W.P.No.22350 of 2015 and by an order dated 24.07.2015, this Court quashed the impugned order and directed the Respondent to issue necessary Community Certificates to the children of the Petitioner, within a period of one week from the date of receipt of a copy of this order. Since no Certificates are issued by the Respondent till date, the Petitioner is before this Court.

7. Learned counsel for the Petitioner submitted that when the Petitioner possess a valid Community Certificate to the effect that he belongs to Kurichchan (ST) Community, there is no impediment for the Respondent to issue Community Certificates to his children as per his claim.

8. Heard the learned counsel on either side and perused

the material documents available on record.

9. 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, there is no hurdle for the Respondent in issuing Community Certificate to his children, as sought for by the Petitioner.

10. Accordingly, we direct the Respondent/Revenue Divisional Officer, Dharmapuri, to issue Kurichchan (ST) Community Certificate to the Petitioner's children (i) D.Sivasankari (ii) D.Sivaguru, 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.70997

+1cc to Government Pleader SR.No.71451

GMV (23/10/2018)

W.P.No.27116 of 2018