

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.27719 of 2018
and
W.M.P.No.32234 of 2018

T.Jayasudha

.. Petitioner

Vs.

The Revenue Divisional Officer,
Harur, Dharmapuri District.

.. Respondent

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 impugned proceedings issued by the respondent in Na.Ka.3547/2018/A3, dated 12.09.2018 and to quash the same and consequently direct the respondent to issue S.T.Kurumans Community Certificate in favour of the petitioner, viz., T.Jayasudha and the petitioner's minor children, viz., V.Pavithra and V.Avandhika, based on the proceedings of the State Level Scrutiny Committee passed in favour of petitioner's paternal uncle Thiru.B.Tamilmani in Proceedings No.41/CVIII/2003, dated 03.12.2014 and based on the ST Kurumans Community Certificate issued in favour of the petitioner's husband, sister and brother and other family members.

For petitioners : Mr.G.Sankaran

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 impugned proceedings issued by the respondent in Na.Ka.3547/2018/A3, dated 12.09.2018 and to quash the same and consequently direct the respondent to issue S.T.Kurumans Community Certificate in favour of the petitioner, viz., T.Jayasudha and the petitioner's minor children, viz., V.Pavithra and V.Avandhika, based on the proceedings of the State Level Scrutiny Committee passed in favour of petitioner's paternal uncle Thiru.B.Tamilmani in Proceedings No.41/CVIII/2003, dated 03.12.2014 of the State Level Scrutiny

Committee and based on the ST Kurumans Community Certificate issued in favour of the petitioner's husband, sister and brother and other family members.

2. It is the case of the petitioner that she is a permanent resident of Pappireddipatti, Dharmapuri District and belongs to Hindu Kurumans Community, which is classified as Scheduled Tribe as per the Scheduled Caste and Scheduled Tribe Orders (Amendment) Act, 1976. She is qualified in 10th Standard and married to Mr.S.Vajjiram and having two children, namely V.Pavithra and V.Avandhika, studying XII Standard and X Standard respectively. For the purpose of further studies after school education and for employment, the Community Certificate is required for the petitioner and her children. Her husband was already issued with Hindu Kurumans Scheduled Tribe Community Certificate, dated 28.12.1985 by the Revenue Divisional Officer, Dharmapuri, after due enquiry and verification. Apart from that, the family branches out from Thiru.Beeran and Sugi, being the petitioner's grandparents. The family tree enclosed in the typed set of papers filed along with the Writ Petition, discloses that number of blood relatives of the petitioner have been issued with ST Kurumans Community Certificate. The petitioner's sister B.Malathi and brother B.Manoj have already been issued with ST Kurumans Community Certificate. Further, the petitioner's paternal uncle (brothers to the petitioner's father) B.Kalaiarasan and B.Tamilmani have already been issued with ST Kurumans Community Certificate. Moreover, K.Vijayapriya, the daughter of B.Kalaiarasan and T.Bavadhari and T.Rohit, children of B.Tamilmani, have also been issued with ST Kurumans Community Certificate. The State Level Scrutiny Committee confirmed the genuineness of Hindu ST Kurumans Community Certificate issued in favour of the petitioner's paternal uncle Thiru.B.Tamilmani, son of Beeran, and thus it is clear that the Community status of the petitioner's blood relatives have been confirmed by the State Level Scrutiny Committee, after due verification.

3. Hence, the petitioner submitted application to the respondent seeking to issue Community Certificate in favour of the petitioner and her children on 20.02.2018. Since no orders were passed, she filed a Writ Petition in W.P.No.18397 of 2018, in which, this Court, by order dated 19.07.2018, directed the respondent to consider her application and pass appropriate orders after personal hearing within a time frame. By the impugned order dated 12.09.2018, the respondent rejected the claim of the petitioner for issuance of ST Kurumans Community Certificate in her favour and in favour of her children by referring to a report of one Director of Tribal Welfare (in-charge) of the year 2015 with reference to culture and habits of people belonging to Kurumans Community without considering the ST Community Certificates issued already in favour of the petitioner's blood relatives as well as the order passed by the

State Level Scrutiny Committee confirming the ST Community Certificate issued in favour of the paternal uncle of the petitioner, namely B.Tamilmani. Challenging the said rejection order dated 12.09.2018, the present Writ Petition is filed by the petitioner for the relief stated supra.

4. Learned counsel for the petitioner made detailed submissions by adverting to the averments made by the petitioner in the affidavit filed in support of the Writ Petition and also on the fact that the petitioner's blood relatives have been issued with the Community Certificate indicating as Kurumans ST Community and also on the fact that the petitioner's own brother and sister have been issued with such Community Certificate indicating the Kurumans ST Community. Learned counsel for the petitioner has produced the proceedings of the Tamil Nadu State Level Scrutiny Committee dated 03.12.2014, relating to one B.Tamilmani, who is a blood relative of the petitioner, wherein the Committee, after enquiry and careful examination of relevant documents, has declared him to be belonging to Kurumans Community. The learned counsel for the petitioner has also produced the Genealogy Certificate to show that the said Tamilmani and the petitioner are the descendants of one Beeran and Sugi. Further, the learned counsel for the petitioner has placed reliance upon the judgment dated 22.04.2016 of the Division Bench of this Court rendered in P.Govindarasu Vs. The Revenue Divisional Officer, Harur, Dharmapuri District (W.P.Nos.17231, 17232, 17495 & 17496 of 2015), wherein, after referring to various judgments governing the issue in question, it was observed as follows:

"15. The competent authorities, without following the directions and the guidelines issued by this Court, rejecting the applications on erroneous consideration that the applicants belong to Kurumbar (MBC) community which is not notified under the Presidential Notification. Hence, in addition to the above guidelines, we would like to issue further directions as follows:

(i) The competent authority while issuing the community certificate, should consider the Schedule Tribe Community certificate issued in favour of the parents and close relatives of the applicants, subject to verification of the relationship and until the above certificates are cancelled by the higher authority namely, State Level Scrutiny Committee, the competent authority should accept the same and issue Schedule Tribe Community Certificate to the applicants.

(ii) The competent authority should not reject the application referring the name of Kurumbar (MBC) while deciding the claim for issuance of Kurumans (ST) community certificate as authorities are not entitled

to refer the name of Kurumbar (MBC) for the purpose of deciding the issue of granting Kurumans (ST) Community Certificate."

5. Relying upon the aforesaid judgment, it is contended by the learned counsel for the petitioner that when the Community Certificate issued to the blood relative of the petitioner has not been cancelled and rather, the State Level Scrutiny Committee itself has confirmed that blood relative of the petitioner, namely, B.Tamilmani as belonging to Kurumans community and when the said fact was also placed before the respondent, the impugned order rejecting the request of the petitioner and declaring that the petitioner and his family members only belong to Hindu Kurumba community is untenable. The learned counsel would further submit that the respondent has not dealt with the relationship between the petitioner and the said B.Tamilmani. Therefore, for all the above reasons, the impugned order is liable to be set aside.

6. Per contra, the learned Additional Government Pleader appearing for the respondent submitted that the impugned order has been passed by considering the various documents produced on the side of the petitioner and therefore, there is no need to set aside the same. According to the learned Addl.G.P., if the petitioner is still aggrieved, it is always open to her to file an appeal before the State Level Scrutiny Committee challenging the order under challenge.

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

8. On a perusal of the order under challenge, as rightly contended by the learned counsel for the petitioner, we find that the relationship between the petitioner and the said Tamilmani, who, according to the petitioner is his blood relative, has not been discussed. Moreover, it is evident from the proceedings of the Tamil Nadu State Level Scrutiny Committee dated 03.12.2014 that the Community Certificate issued to the said Tamilmani stating that he belongs to Kurumans community, has been confirmed by the State Level Scrutiny Committee, after due enquiry and verification of relevant documents. In such circumstances and in the light of the observations made by the Division Bench of this Court in the aforesaid judgment, we are of the considered view that it would be appropriate to remit the matter back to the respondent for fresh consideration and disposal.

9. Accordingly, the impugned order is set aside and the matter is remitted back to the respondent, who shall consider the application of the petitioner for issuance of Community Certificate to the petitioner and her children afresh. The

respondent shall examine the relationship between the petitioner and the said B.Tamilmani, by affording an opportunity of hearing to the petitioner and on being satisfied with the blood relationship between the petitioner and the said Tamilmani, shall pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order.

10. It is made clear that the above order has been passed without expressing any opinion on the merits of the claim made by the petitioner and even after the Community Certificates are issued to the petitioner and her children, the same shall be subject to verification, at a later point of time, by the State Level Scrutiny Committee.

11. The writ petition is disposed of with the above observations. No costs. Consequently, W.M.P. is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

CS

To

The Revenue Divisional Officer,
Harur, Dharmapuri District.

+1cc to Mr.G.Sankaran, Advocate, S.R.No.75597

W.P.No.27719 of 2018

rrs 14/11/2018

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