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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.(MD) No.5533 of 2018
and
W.M.P.(MD) No.5436 of 2018

M.Yuvarani ... Petitioner

-vs-

1.The District Collector,
Thoothukudi District.

2.The Revenue Divisional Officer,
Kovilpatti Taluk,
Thoothukudi District.

3.The Tahsildar,
Vilathikulam Taluk Office,
Thoothukudi District. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the order issued by the 3rd respondent herein in his proceedings in Na.Ka.AA6/9920/2017 dated 02.11.2017 and quash the same consequently direct the respondents to issue the community certificate in favour of her two sons namely (1) M.Saravana and (2) Mugilan on the basis of her application submitted to the 2nd respondent within the time stipulated by this Court.

For Petitioner : Mr.C.Jegannathan for
M/s.Veera Associates

For Respondents : Mr.V.R.Shanmuganathan
Special Government Pleader

O R D E R

(Order of the Court was made by T.S.SIVAGNANAM, J.)

Heard Mr.C.Jegannathan, learned counsel appearing for the petitioner and Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents.

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2.The petitioner is the wife of one Muthukrishnan. She had applied for grant of community certificate for her sons viz., Saravana and Mugilan certifying that they belong to Hindu Malaivedan community, which is classified as Scheduled Tribe community. The second respondent is the competent authority to consider and grant certificate subject to fulfilment of the relevant conditions. Unfortunately, in the instance case, the second respondent did not independently consider the matter, but, has solely acted by the report submitted by the third respondent dated19.12.2017. Even in the said report, the Tahsildar accepts that the petitioner has been issued a certificate belong to Hindu Malaivedan community. Her father has been issued a certificate to the same effect. In her husband's school Transfer Certificate issued in the year 1988, his community has been mentioned as Hindu Malaivedan Community.

3.The impugned proceedings is a non speaking order. The second respondent being the competent authority to consider the application for grant of community certificate has to conduct an enquiry independently and then come to a conclusion and not solely to act by the report of the Tahsildar. The petitioner's case is that her husband Muthukrishnan does not have a community certificate, but, she has produced his school Transfer Certificate to establish that he belongs to Hindu Malaivedan community. Therefore, a verification process could have been conducted to verify as to whether the petitioner husband belongs to the said community. In any event, the community certificate issued to the petitioner in the year 2016 being in force as on date should have been taken into consideration.

4.Thus, for the above reasons, we satisfied that the impugned order calls for interference. Accordingly, this writ petition is allowed and the impugned order is set aside. The matter is remitted to the second respondent to reconsider the matter afresh independently, conduct an enquiry and pass appropriate orders on merits and in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order.

5.This writ petition is allowed with the above observation and direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To
1.The District Collector, Thoothukudi District.

2.The Revenue Divisional Officer,Kovilpatti Taluk,
Thoothukudi District.

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3.The Tahsildar,
Vilathikulam Taluk Office,
Thoothukudi District.

+1CC to M/s.Veera Associates, SR.No. 55411
+1CC to the Special Government Pleader SR.No.55949

W.P.(MD) No.5533 of 2018
and
W.M.P.(MD) No.5436 of 2018

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