



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 15.11.2018

DELIVERED ON : 23.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P(MD)No.16008 of 2018

1.Deepu Bharath Mohan
2.Vethika Mohan

... Petitioners

Vs.

1.The District Collector,
Kanyakumari District Collectorate,
Nagercoil.

2.The Sub-Collector,
Padmanabapuram,
Kanyakumari District.

3.The Revenue Divisional Officer,
Nagercoil,
Kanyakumari District.

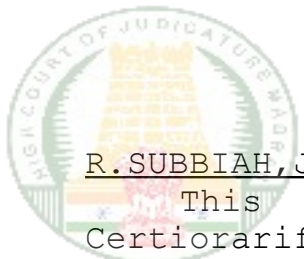
4.The Tahsildar,
Vilavancode Taluk,
Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the second respondent in Na.Ka.Aa.3/5637/2017, dated 07.02.2018 and quash the same and direct the respondents to issue Hindu Cheramar Community Certificate to the petitioners, namely, (1) M.Deepu Bharath Mohan and (2) M.Vethika Mohan on their application dated 05.07.2017 within the time frame fixed by this Court.

For Petitioners : Ms.J.Anandhavalli

For Respondents : Mr.R.Sethuraman

ORDERR.SUBBIAH, J.

This writ petition has been filed seeking a writ of Certiorari Mandamus to call for the records pertaining to the impugned order passed by the second respondent in Na.Ka.Aa.3/5637/2017, dated 07.02.2018 and quash the same and direct the respondents to issue Hindu Cheramar Community Certificate to the petitioners, namely, (1) M.Deepu Bharath Mohan and (2) M.Vethika Mohan on their application dated 05.07.2017 within the time frame fixed by this Court.

2. The case of the petitioners is that their mother namely, Sindhu was issued with Hindu Cheramar Scheduled Caste Community Certificate by the fourth respondent, vide Certificate No.060716. The first petitioner has successfully completed his school education in the year 2016. The second petitioner has also successfully completed 12th Standard in the year 2017. In the year 2013 itself, on 22.10.2013, through e-service, an application for issuance of Hindu Cheramar Scheduled Caste Community Certificate was individually applied in the names of the petitioners. Since there was no response, again on 02.02.2015, another application was made before the revenue authorities concerned. The said application was not considered.

3. Thereafter, in the year 2016, on 22.09.2016 and 15.11.2016, the applications were submitted through e-service portal for issuance of community certificates. Thereafter, on 24.04.2017 and 05.07.2017, the application for issuance of Community Certificate was made through e-service and the same was also acknowledged, but none of the applications was considered. Therefore, finally on 07.07.2017, the father of the petitioners sent a petition under the Right to Information Act to the fourth respondent, who replied that no such applications were preferred by the petitioners. In such circumstances, on 07.08.2017, the second petitioner applied for admission to B.Sc., Nursing Course for 2017-2018 under the Scheduled Caste category, but they were permitted to study the course subject to the production of Community Certificate and permission was granted to undergo B.Sc., Nursing Course.

4. Since the fourth respondent informed under the Right to Information Act that no applications were received by them, the petitioners moved this Court under Article 226 of the Constitution of India in W.P(MD)No.19281 of 2017 and this Court, by order dated 13.10.2017, directed the petitioners to give a fresh representation to the Revenue Divisional Officer, Nagercoil and consequently, directed the Revenue Divisional Officer to consider the application and pass appropriate orders. Hence, the petitioner made a representation dated 14.11.2017 along with necessary documents. The said application was forwarded to the second respondent by order dated 07.02.2018 and the same was rejected stating that the petitioners and their parents registered as members in a church at Church of God in South India, Southern Area, Cheruvallor Church and



therefore, the petitioners are not entitled for the community certificate. Challenging the same, the present writ petition has been filed.

5. When the matter is taken up for hearing, the learned Counsel for the petitioners by inviting the attention of this Court to the report of the Village Administrative Officer, Puliyoorsalai Village, dated 18.04.2017, submitted that the parents of the petitioners were living as Hindu Cheramar and they belonged to Scheduled Caste community. He also relied upon the statements recorded by the Village Administrative Officer from the villagers which would show that the family of the petitioners is having religious faith in Hinduism.

6. The learned Counsel for the petitioner also produced a copy of the certificate issued by Sree Siva Temple Committee wherein it has been stated that the family of the petitioners had bona fide faith and were regularly attending poojas connected with the temple, but, though these documents along with other documents were produced before the Revenue Divisional Officer, without considering the same, he has passed a non-speaking order. Therefore, the matter may be remitted back to the Revenue Divisional Officer by setting aside the impugned order and prayed for allowing this writ petition.

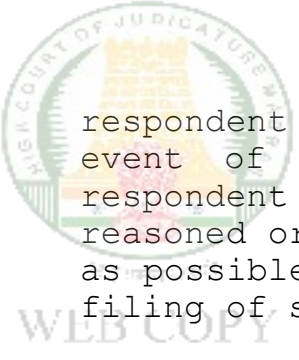
7. Per contra, the learned Special Government Pleader appearing for the respondents, on instructions, submitted that all the enquiries and field inspection made would show that the parents of the petitioners are practising christian religion and they are the members of the CSI, Cheruvaloor Church and hence, prayed for the dismissal of this writ petition.

8. We have carefully considered the rival submissions and perused the materials available on record.

9. The main grievance of the petitioners is that despite the petitioners have produced the relevant documents, statements of the villagers, the report of the concerned Village Administrative Officer and the Certificate issued by the Sree Siva Temple Committee, the second respondent failed to consider any of the aforesaid documents and therefore, the matter has to be remitted back to the second respondent for fresh consideration.

10. However, we are not inclined to entertain this writ petition for the reason that the petitioners have to work out their appeal remedy before the first respondent in accordance with law and without exhausting the appeal remedy, the petitioners are not justified in invoking the jurisdiction of this Court under Article 226 of the Constitution of India by filing the present writ petition. Thus, the present writ petition fails.

11. In the result, this writ petition stands dismissed, however, granting liberty to the petitioners to approach the first



respondent by way of filing the appeal, if they so desire. In the event of filing of any appeal by the petitioners, the first respondent shall consider all the relevant documents and pass a reasoned order on merits and in accordance with law as expeditiously as possible preferably within a period of six weeks from the date of filing of such appeal. No costs.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-I)

To

- 1.The District Collector,
Kanyakumari District Collectorate,
Nagercoil.
- 2.The Sub-Collector,
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- 3.The Revenue Divisional Officer,
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- 4.The Tahsildar,
Vilavancode Taluk,
Kanyakumari District.

. 1 CC TO Ms.J.Anandhavalli , ADVOCATE IN SR No. 96588.
+1 cc to Special Government Pleader, SR.No.96795

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ORDER MADE IN
W.P (MD) No.16008 of 2018
23.11.2018