

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2019

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition No.5139 of 2019

M.Manivannan
S/o.Mathaiyan

...Petitioner

Vs

The Sub-Collector,
Dharmapuri,
Dharmapuri District.

... Respondent

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order of rejection passed in proceedings No.:Pa.Mu:A4/7558/2018 dated 24.12.2018 on the file of the respondent and quash the same and direct the respondent to issue Community Certificate to the petitioner and his children viz., (1) M.Harikumar and (2) M.Kaviyarasu that they belong to Kurumans (ST) Community based upon the Community Certificate already issued to the petitioner's own brother A.M.Sivakumar and his children.

For Petitioner : Mr.S.Doraiswamy

For Respondents: Mr.J.Pothiraj,
Special Government Pleader

O R D E R

[Order was delivered by R.SUBBIAH,J]

Petitioner has filed this writ petition seeking quash of the order of rejection passed by the respondent in proceedings No.:Pa.Mu:A4/7558/2018 dated 24.12.2018 and consequently, direct the respondent to issue Community Certificate to the petitioner and his children viz. (1) M.Harikumar and (2) M.Kaviyarasu that they belong to Kurumans (ST) Community based upon the Community

Certificate already issued to the petitioner's own brother A.M.Sivakumar and his children.

2. Heard learned counsel for the petitioner and learned Special Government Pleader for the respondent.

3. According to the petitioner, his brother's children obtained Community Certificate from the respondent stating that they belong to Kurumans, a scheduled tribe community. Petitioner has submitted an application to the respondent on 22.12.2017 seeking issuance of Community Certificate to him and his children. Along with the application, the following documents were enclosed :

- (1) Community Certificate of petitioner's brother A.M.Sivakumar dated 26.07.1996.
- (2) Community Certificate of petitioner's brother's children S.Gowrisankar and S.Dhinusha.
- (3) State Level Scrutiny Report of petitioner's brother's wife K.Lakshmi.
- (4) Order in W.P.No.1807 of 2013 dated 05.11.2013.
- (5) School Transfer Certificate of petitioner's children.
- (6) Family Tree Certificate.

4. Since no order was passed by the respondent, petitioner filed W.P.No.28668 of 2018 seeking a direction to issue Community Certificate to him and his children based upon the Community Certificate already issued to his own brother A.M.Sivakumar and his children. This Court, under order dated 30.10.2018, directed the respondent to dispose of petitioner's application. Pursuant thereto, respondent issued a notice to the petitioner requiring him to appear for an enquiry. During enquiry, petitioner produced all the above documents in support of his claim. Upon completion of enquiry, respondent passed an order dated 24.12.2018 holding that the entries in the School Records and Birth/Death Registers of petitioner's close relatives show that they belong to Kurumbar community. Challenging the same, petitioner is before this Court.

5. Learned counsel for petitioner submits that when the petitioner's brother possesses valid Community Certificate, petitioner and his family members are entitled to obtain Community Certificate without any further enquiry.

Considering the facts and circumstances of the case, the Writ Petition is allowed and the impugned order passed by the respondent in proceedings No.:Pa.Mu:A4/7558/2018 dated 24.12.2018, is set aside. Respondent is directed to issue Community Certificate to the petitioner and his children viz., (1) M.Harikumar and (2) M.Kaviyarasu, based on the Community Certificate already issued to petitioner's brother, as early as

possible, and in any event, within a period of six weeks from the date of receipt of this order. This Court makes it clear that after issuance of Community Certificates to the petitioner and his children, the respondent is at liberty to sent the same for verification to the State Level Scrutiny Committee. No costs.

gm

Sd/-
Assistant Registrar(CS IV)

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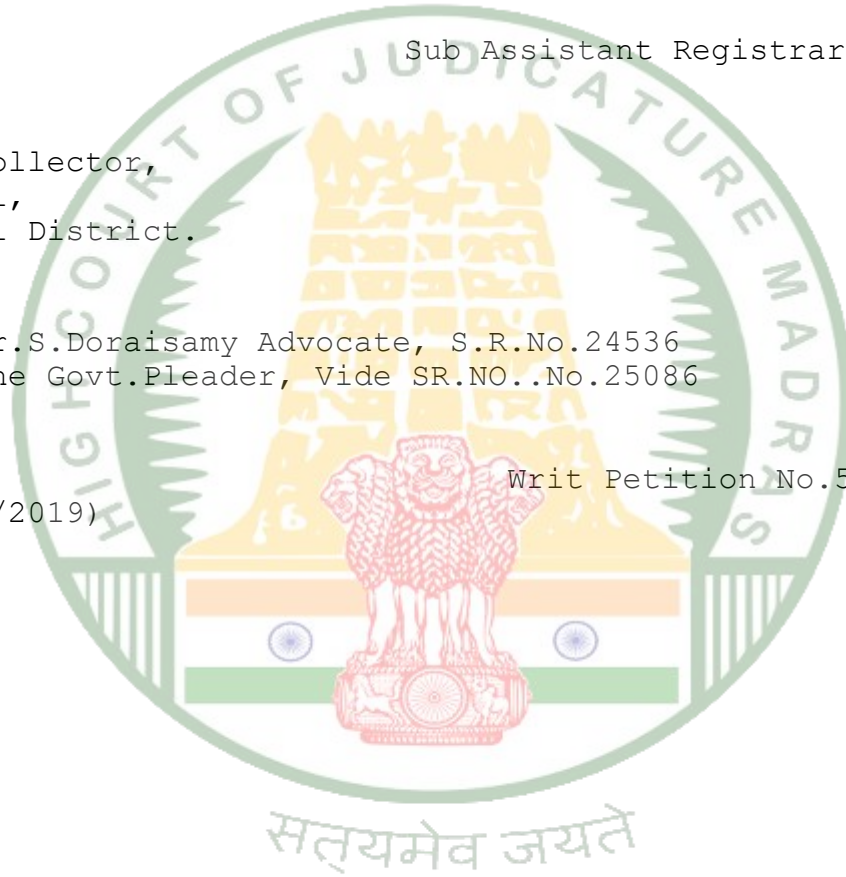
Sub Assistant Registrar

To
The Sub-Collector,
Dharmapuri,
Dharmapuri District.

+1cc to Mr.S.Doraisamy Advocate, S.R.No.24536
+1cc to the Govt.Pleader, Vide SR.NO..No.25086

Kak(21/03/2019)

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