

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12-03-2019

CORAM:

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

Writ Petition No. 6255 of 2019

Vijetha Dhinakaran

.. Petitioner

Versus

The Tahsildar  
Purasawalkam-Perumbur Taluk  
Chennai - 600 011

... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the respondent to correct and rectify the error and re-issue the Community Certificate dated 24.03.2008 bearing No.5414041 by mentioning the name of the petitioner's father Edward Kumar instead of her husband name Dinakaran.

For Petitioner : Mr. T.K.S. Gandhi

For Respondent : Mr. D. Raghu  
Government Advocate

ORDER

(Order of the Court was made by R. Subbiah, J)

The petitioner seeks for issuing a Writ of Mandamus directing the respondent to correct and rectify the error and re-issue the Community Certificate dated 24.03.2008 bearing No.5414041 issued to her by incorporating the name of her father Edward Kumar instead of her husband name Dinakaran.

2. According to the petitioner, she was born to her parents Late. Edward Kumar and Mrs. Saraswathi on 23.12.1992 at Union Territory of Andaman and Nicobar Island. It is stated that her father is a native of Tamil Nadu, while her mother belongs to Andaman. It is further stated that the petitioner completed her schooling in Andaman and also pursued her B.Com Degree in the year 2003 and Masters Degree in M.Com during the year 2005 at Andaman. After completion of higher studies, she was given in marriage to her own relative and she got settled in Chennai during the year 2006. Due to the wedlock a female child

by name Dishaa was born and she is now studying VI standard. Thus, according to the petitioner, she is living in Chennai from the year 2006 after her marriage. It is stated that in the Union Territory of Andaman and Nicobar Island, where the petitioner was born, there was no practice of issuing community certificate and therefore she had no occasion to obtain such a certificate. However, after her marriage, she came to Chennai and during the year 2008, she applied for issuing a community certificate to her. Accordingly, on 24.03.2008, a community certificate was also issued to her certifying that she belonged to "Hindu Adi Dravida".

3. The petitioner would further contend that she was desirous of writing civil service exams and accordingly she submitted her application in response to a notification issued by the Union Public Service Commission. In the column meant for declaring her communal status, she referred to the certificate issued to her on 24.03.2008. The petitioner also successfully cleared the preliminary level and main level and she was invited to attend a personal test/interview on 01.03.2019. When the petitioner was preparing herself to attend the interview, she received a e-mail dated 06.02.2009 from Union Public Service Commission stating that her father's name is not incorporated in the community certificate issued to her and therefore, she was directed to produce a fresh community certificate by duly incorporating the name of her father, before the Personality Test. At this stage, the petitioner noticed that her father's name has not been incorporated in the community certificate issued to her, rather, the name of her husband alone is mentioned therein. Therefore, on 11.02.2019, the petitioner applied on-line for issuing a fresh community certificate by incorporating the name of her father instead of her husband. In response to her application, the respondent also conducted a personal verification on 20.02.2019 and collected the identification proof and also recorded her statement as also the statement of her neighbours. The respondent also collected the Aadhar Card of the petitioner during such personal verification. However, when the petitioner went to the office of the respondent on 21.02.2019, the respondent refused to issue a fresh community certificate without assigning any reason. In the above circumstances, the petitioner, with no other alternative relief has filed this writ petition for a Mandamus.

4. When the writ petition is taken up for hearing, the learned counsel for the petitioner reiterated the averments made in the affidavit filed in support of the writ petition and prayed for issuing appropriate direction to the respondent to issue a fresh community certificate to the petitioner by duly incorporating the name of her father.

5. The learned Government Advocate opposed the relief

sought for in the writ petition by contending that there is no community classified in Andaman and Nicobar Islands as Schedule Caste under the Constitution (Andaman and Nicobar Islands) Scheduled Tribes Order, 1959 as amended by the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976. The learned Government Advocate also would contend that as per the State wise number of castes notified as Scheduled Castes as on 23.09.2008 none of the community is classified as Scheduled Caste in Andaman and Nicobar Islands under the Constitution (Andaman and Nicobar Islands) Scheduled Tribes Order, 1959 as amended by the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976. Therefore, according to the learned Government Advocate, the petitioner seems to have obtained community certificate as belonging to Hindu " Adi Dravidar" based only on the community certificate of her husband. Further, the discreet enquiry conducted by the respondent disclosed that the husband of the petitioner professes Christianity as his religion. Therefore, the petitioner cannot claim herself as belonging to Hindu Adi Dravida Community. Further, the father of the writ petitioner was a Christian who professed Christianity as his religion. Therefore, the claim of the petitioner to re-issue the community certificate by incorporating the name of her father cannot be considered and prayed for dismissal of the writ petition.

6. We have heard the counsel for both sides and perused the records. The petitioner submitted an application seeking to issue community certificate in her name and such a certificate was also issued by the respondent on 24.03.2008 indicating that the petitioner belonged to Hindu Adi Dravidar Community. In the said Certificate, the name of the petitioner's father was not incorporated but only the husband name of the petitioner was indicated. Now, the petitioner only seeks to re-issue the certificate by incorporating the name of her father purportedly to submit it to the Union Public Service Commission pursuant to her selection in the examination written by her. When such a certificate has already been issued to the petitioner, we find no reason to reject the prayer of the petitioner to only incorporate the name of her father in the community certificate issued to her. We also find that there cannot be any impediment for the respondent to issue a fresh certificate to the petitioner by incorporating the name of her father Late. Edward Kumar, instead of her husband's name.

7. In the light of the above, the writ petition is disposed of with a direction to the respondent to issue a fresh community certificate to the petitioner by duly incorporating the name of her father Edward Kumar therein, within a period of one week from the date of receipt of a copy of this order. No costs.

Rsh

12/03/2019

For Being Mentioned

The Writ Petition having been posted on 26.03.2019 under the caption "For Being Mentioned" pursuant to the Order of this Court dated 26.03.2019 and made in W.P.No. 6255 of 2019 in the presence of the aforesaid Advocates, the Court made the following Order:-

[Order of this Court was made by R.SUBBIAH, J]

Under order dated 12.03.2019, this Court directed the respondent to issue a fresh Community Certificate to the petitioner duly incorporating the name of her father Edward Kumar therein, within a period one week from the date of receipt of the order. Such order was passed since Union Public Service Commission in its proceedings dated 01.03.2019, insisted the petitioner to obtain a Community Certificate by mentioning her father's name.

2. Today, the matter is listed under the caption 'for being mentioned' at the instance of learned Government Advocate.

3. As the earlier order of this Court specifically directs the respondent to issue a fresh Community Certificate to the petitioner duly incorporating her father's name, no further clarification is necessary.

Gm

26/03/2019

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

To

The Tahsildar  
Purasawalkam-Perumbur Taluk  
Chennai - 600 011

+1 CC to Mr.T.K.Gandhi, Advocate sr 23307.

+1 CC to Govt. Pleader sr 23656.

WP No. 6255 of 2019

SJ(CO)  
SP(14/03/2019)  
GN(02/04/2019)