

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2019

CORAM:

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

W.P.No.5961 of 2019

R.Latha

.. Petitioner

Vs.

The Revenue Divisional Officer,
Gopichettipalayam,
Erode 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 order of rejection passed in O.Mu.820/2019 E2, dated 12.02.2019 on the file of the respondent, quash the same and direct the respondent to issue Community Certificate to the children of the petitioner, viz., Sen Vijayarajan and Anu Prasad that they belong to "Kondareddis (ST) Community" based upon the Community Certificate possessed by the petitioner and her sister.

For petitioner : Mr.S.Doraisamy

For respondents : Mr.D.Raghu, Govt. Advocate

ORDER

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

The petitioner has come forward with the present Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order of rejection passed in O.Mu.820/2019 E2, dated 12.02.2019 on the file of the respondent, quash the same and direct the respondent to issue Community Certificate to the children of the petitioner, viz., Sen Vijayarajan and Anu Prasad that they belong to "Kondareddis (ST) Community" based upon the Community Certificate possessed by the petitioner and her sister.

2. In the affidavit filed in support of the Writ Petition, it is averred by the petitioner that she belongs to Kondareddis Community, which is classified as a Scheduled Tribe Community. In all her school records, her community is entered as Kondareddis. She had obtained Community Certificate from the Tahsildar, Mettur on 30.06.1986 stating that she belongs to Kondareddis Community. Her own sister R.Devaki is also issued with Community Certificate stating that she belongs to Kondareddis (ST) Community. In her father's school records, his community is entered as Kondareddis (ST) Community. The petitioner preferred an application to the respondent on 16.11.2004 for issuance of the Community Certificate for her children, namely Sen Vijayarajan and Anu Prasad. Along with the said application, she had enclosed 56 documents to support her claim. Since no order is passed, the petitioner filed a Writ Petition in W.P.Nos.14159 and 14160 of 2011 for a direction to issue Community Certificate to her children that they belong to Kondareddis (ST) Community based upon the Community Certificate already possessed by the petitioner. This Court, on 22.06.2011, passed an order in the said Writ Petition directing the respondent to dispose of her application within a period of two months. However, the respondent rejected her claim on the ground that her physical appearance did not indicate that she belongs to Kondareddis (ST) Community, as against which, the petitioner's children represented by their mother (the petitioner herein) filed Writ Petitions in W.P.Nos.10800 and 10801 of 2012 and this Court, on 05.06.2012, set aside the rejection order and remitted the matter back to the respondent for fresh consideration. Again, the respondent rejected the claim of the petitioner holding that she belongs to Reddiar Community, against which, her children, represented by their mother (the petitioner herein) filed Writ Petitions in W.P.Nos.22617 and 22618 of 2012, in which, this Court, on 12.12.2013, set aside the order of rejection and directed the respondent to re-consider the application of the petitioner afresh. Thereafter, the respondent issued notice to the petitioner on 06.03.2014 stating that her Community Certificate is forwarded to the State Level Scrutiny Committee to verify her community and only thereafter, he can take steps in respect of the application of the petitioner. Since five years had lapsed, the respondent did not issue Community Certificate to the petitioner's children, she preferred an application on 07.02.2019 requesting to issue Community Certificate to the petitioner's children. The respondent, again by order dated 12.02.2019, forwarded the petitioner's Community Certificate to the State Level Scrutiny Committee to verify the petitioner's Community and only thereafter, he can take steps in respect of the application of the petitioner, against which, the present Writ Petition is filed for the relief stated supra.

3. When the Writ Petition is taken up for consideration, learned counsel for the petitioner made detailed submissions adverting to the averments made in the affidavit filed in support of the Writ Petition. However, learned Government Advocate appearing for the respondent, by filing counter affidavit, opposed the prayer stating that the enquiry is pending, and therefore, this Court may not issue positive direction. But however, we are of the opinion that in similar circumstances, this Court has issued positive direction to issue Community Certificate where the close/other relatives were issued with such Community Certificates. In this case, till date, the Community Certificates issued to the petitioner and her sister were not cancelled. Under such circumstances, we find some justification in the prayer sought for by the petitioner. Consequently, this Court is constrained to pass the following order.

4. Accordingly, we direct the respondent to issue Kondareddis (ST) Community Certificates to the children of the petitioner, namely Sen Vijayarajan and Anu Prasad, within a period of six weeks from the date of receipt of a copy of this order. We make it clear that after issuance of the Community Certificate to the petitioner's children as directed above, the respondent is at liberty to send the same for verification to the State Level Scrutiny Committee, including the Community Certificates already issued to the petitioner and her own sister, if they have not yet been verified by the State Level Scrutiny Committee. The State Level Scrutiny Committee is directed to conduct enquiry with regard to the genuineness of all those Community Certificates already issued and also the ones that will be issued to the petitioner's children and pass appropriate orders on or before 30.06.2019.

5. With the above observations and directions, this Writ Petition is disposed of. No Costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

CS

To

The Revenue Divisional Officer,
Gopichettipalayam,
Erode District.

+lcc to Mr.S.Doraisamy, Advocate Sr.26768
+lcc to the Government Pleader Sr.27997

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