

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order Reserved on : 30.04.2019

Order pronounced on : 18.06.2019

Coram

The Honourable Mr. Justice R. Subbiah
and
The Honourable Mr. Justice Krishnan Ramasamy

Writ Petition No. 6870 of 2019

D. Ravi

.. Petitioner

Versus

1. The District Collector and Chairman
District Level Vigilance Committee
Salem District, Salem

2. The Sub Collector
Mettur Dam
Salem District

.. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the respondents to issue community certificate to the petitioner's daughter R. Sowmya and son R. Someshwar to the effect that they belong to the Konda Reddis community (Schedule Tribe) on the basis of the community certificate issued to the petitioner and his wife dated 27.06.1975 and 19.11.1978.

For Petitioner : Mr. P. Wilson, Senior Advocate
for Mr. N. Naganathan

For Respondents : Mr. J. Pothiraj
Special Government Pleader

ORDER

The petitioner has come forward with this writ petition seeking to issue a Writ of Mandamus directing the respondents to issue community certificate to his daughter R. Sowmya and son R. Someshwar to the effect that they belong to the Konda Reddis community (Schedule Tribe) on the basis of the community certificate issued to him and his wife on 27.06.1975 and 19.11.1978 respectively.

2. According to the petitioner, his family belongs to Konda Reddis community, which is classified as Schedule Tribe community. It is his contention that the Tahsildar, Mettur Dam has issued a community certificate to him on 27.06.1975 to the effect that he belonged to Konda Reddis community. A similar certificate was also issued on 19.11.1978 in favour of his wife. According to the petitioner, many of his relatives have obtained community certificate to the effect that they belong to Konda Reddis community. On the strength of the certificate issued to him, the petitioner has submitted an application dated 12.10.2010 to the Revenue Divisional Officer, Mettur for issuing a community certificate in favour of his daughter and son by enclosing documentary evidence. As the application has not been considered for some time, the petitioner sent a reminder on 24.12.2012. Thereafter, the petitioner filed a writ petition No. 3611 of 2013 before this Court. On 20.02.2013, the WP No. 3611 of 2013 filed by the petitioner was disposed of by this Court with a direction to the second respondent to complete the enquiry and pass final orders within a period of eight weeks taking note of the community certificate issued to relatives of the petitioner. Pursuant to such direction, the petitioner submitted documentary evidence in support of his claim. However, the second respondent passed an order dated 19.12.2016 rejecting the claim of the petitioner for issuing community certificate to his children. Challenging the order dated 19.12.2016, petitioner has filed WP No. 8052 of 2017 before this Court. By order dated 24.07.2017, this Court, finding that an alternative remedy of appeal is available with the first respondent, disposed of the writ petition with a direction to the petitioner to prefer an appeal. Accordingly, on 22.09.2017, the petitioner has filed a statutory appeal before the first respondent. However, so far, the first respondent did not pass any orders on the appeal preferred by the petitioner. According to the petitioner, his children have completed Degree course and are intending to pursue higher studies. However, due to the delay on the part of the first respondent in passing final orders in the appeal filed by the petitioner on 22.09.2017, grave prejudice and hardship has been caused to him and his family members. The petitioner has therefore come forward with this writ petition for the relief stated supra.

3. When the writ petition is taken up for hearing, the learned Senior counsel for the petitioner would contend that the petitioner and his wife were issued with a community certificate on 27.06.1975 and 19.11.1978 respectively by the Tahsildar, Mettur after due verification. It is on the strength of these documents that the petitioner submitted an application for issuing community certificate in favour of his son and daughter. The application of the petitioner was rejected by the second respondent on 04.07.2013 which was challenged by the petitioner

in WP No. 23383 of 2013. By order dated 11.02.2014, this Court, while disposing of WP No. 23383 of 2013 remitted the matter back to the respondents by holding that the respondent shall reconsider the claim of the petitioner seeking community certificate to their children and pass orders within a period of four weeks from the date of production of certificates by the petitioners showing their relationship with S.Thaarashanmathi, daughter of C. Sanjeevi and also the certificate of K. Hariprasad, son of Kuppovi Reddy. According to the learned Senior counsel for the petitioner, the said Thaarashanmathi, Daughter of Sanjeevi has filed WP No. 36600 of 2006 seeking to direct the respondents therein for issuing a community certificate on the basis of a certificate issued to her father. The said writ petition was allowed by this Court on 14.07.2010 and thereafter, the second respondent therein issued a community certificate dated 22.09.2010 in favour of Thaarashanmathi. Similarly, the said Sanjeevi has filed WP No. 33423 of 2017 before this Court and it was allowed on 22.12.2017 by setting aside the order of the State Level Scrutiny Committee and by confirming the community certificate issued to the above said C. Sanjeevi that he belongs to Konda Reddy Community. The said Sanjeevi has also given a certificate to the petitioner stating that the petitioner is his relative and the said certificate dated 21.06.2014 has also been produced by the petitioner before the second respondent. The learned Senior counsel for the petitioner further proceeded to contend that C. Sanjeevi's grand mother Tmt. Pappathi and grand father of Petitioner's wife Narasimma Reddy are brother and sister and they are the legal heirs of one Kuppovi Reddy. The said Kuppovi Reddy and Basava Reddy are brothers and they are the legal heirs of one Ovi Reddy. The said Basava Reddy's grand son is Kuppovi Reddy. The children of Kuppovi Reddy namely Harishankar, Hariprasad and Suganya have filed WP Nos. 18255 to 18277 of 2011 before this Court and pursuant to the order dated 18.11.2011 passed by this Court in the aforesaid writ petitions, they were issued community certificate on 16.03.2012. Thereafter, the said Kuppovi Reddy has given a relationship certificate in favour of the petitioner on 17.12.2013 which was also produced before the second respondent for consideration. Further, the above said Hariprasad has filed WP No. 4940 of 2019 before this Court seeking community certificate to his son H. Nitin contending that the application filed by him before the second respondent herein has not been considered. By order dated 04.04.2019, this Court directed the respondent therein to issue community certificate to the said Hariprasad's son H. Nitin within a period of six weeks from the date of receipt of a copy of the order. Thus, according to the learned Senior counsel for the petitioner, several documents have been enclosed by the petitioner in the application seeking community certificate to his children, but they were ignored and not considered by the

second respondent while passing the order of rejection on 04.07.2013. Thereafter, the petitioner has filed an appeal before the first respondent on 22.09.2017 as directed by this Court in the order dated 24.07.2017 passed in WP No. 8052 of 2017 filed by the petitioner, however, till date, no order has been passed by the first respondent. Therefore, the learned Senior counsel for the petitioner prayed this Court to issue a Mandamus as prayed for, by allowing the writ petition.

4. Per contra, the learned Special Government Pleader appearing for the respondents, relying on the counter affidavit of the second respondent, would contend that the petitioner's family did not belong to Konda Reddy community, as claimed. The community certificates relied on by the petitioner did not indicate the official register number, community certificate serial number and year and therefore, the genuineness of the certificates issued to the petitioner and his wife are highly doubtful. Further, the school records produced by the petitioner indicate that he belongs to Hindu Reddiar community, which is a forward community. Similarly, in the school records of the petitioner's wife, corrections have been made in the column relating to 'community'. Further, the relatives of the petitioner have been issued with community certificate to the effect that they belong to 'Konda Reddy' community, but such certificates have been issued in compliance with the order passed by this Court and subject to further verification to be made by the respondent. The learned Special Government Pleader also placed reliance on the tabular column given in the counter affidavit to demonstrate that in the school records, the community of the relatives of the petitioner were mentioned only as 'Hindu Reddiar'. Further, in the sale deeds executed in connection with purchase or sale of the property, the community of the relatives of the petitioner were only mentioned as Reddiar. Thus, the learned Special Government Pleader would contend that the second respondent, considering all the documents submitted by the petitioner and after conducting a local enquiry, has come to a correct conclusion that the petitioner and his family members did not belong to 'Konda Reddy' community and consequently, the children of the petitioner are not entitled to be considered as one who belong to 'Konda Reddy' community. Above all, the petitioner, during the course of enquiry by the second respondent did not produce the service records of the petitioner, who is employed in Life Insurance Corporation and that of his brother Loganathan, who is working as Manager in Indian Overseas Bank. Further, from the school records of the petitioner's father, petitioner and his sister Selvi, it is seen that they belong only to 'Hindu Reddiar' community which is a forward community. Above all, this Court, in the order dated 14.07.2010 passed in WP No. 36600 of 2006 directed the second respondent to consider the community

certificate issued to the relatives of the petitioner. Accordingly, the second respondent scrutinised the community certificate issued to Selvi. Tharashanmathi, Daughter of Sanjeevi. The said Sanjeevi is working as Postal Officer in Post and Telegraphs Department, Salem and the community certificate issued to him clearly indicates that he belong to 'Hindu Reddy' community. Above all, even though community certificates have been issued to the petitioner and his wife, such certificates are being verified by the State Level Scrutiny Committee and therefore, the learned Special Government Pleader appearing for the respondents prayed for dismissal of the writ petition.

5. We have heard the counsel for both sides and perused the materials placed on record. It is no doubt true that the application submitted by the petitioner seeking community certificates to his children was rejected by an order dated 19.12.2016 of the second respondent. In the said order dated 19.12.2016, the second respondent has assigned various reasons to conclude that the community certificates issued to the petitioner and his wife are highly doubtful. In the order dated 19.12.2016, the second respondent also considered all the documentary evidence produced by the petitioner and rejected the claim made by the petitioner. The said order dated 19.12.2016 was subjected to challenge in WP No. 8052 of 2017 and this Court, by order dated 24.07.2017, directed the petitioner to file a statutory appeal before the first respondent. Accordingly, on 22.09.2017, the petitioner has also preferred a statutory appeal before the first respondent and the appeal is pending. When a statutory appeal is pending before the competent authority, this Court, in exercise of power under Article 226 of The Constitution of India, cannot render a finding as regards the genuineness of the certificates issued to the petitioner and his wife, especially when the respondents have raised serious objections as regards the genuineness of the certificates issued to them. In such circumstances, we are only inclined to issue a direction to the first respondent herein to take up the statutory appeal preferred by the petitioner on 22.09.2017, consider the documentary evidence submitted by him to show that he and his relatives belong to 'Konda Reddy' community, afford him an opportunity of hearing and thereafter pass an order on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. Accordingly, we dispose of the writ petition. No costs.

Sd/-

Assistant Registrar(CS V)

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Sub Assistant Registrar

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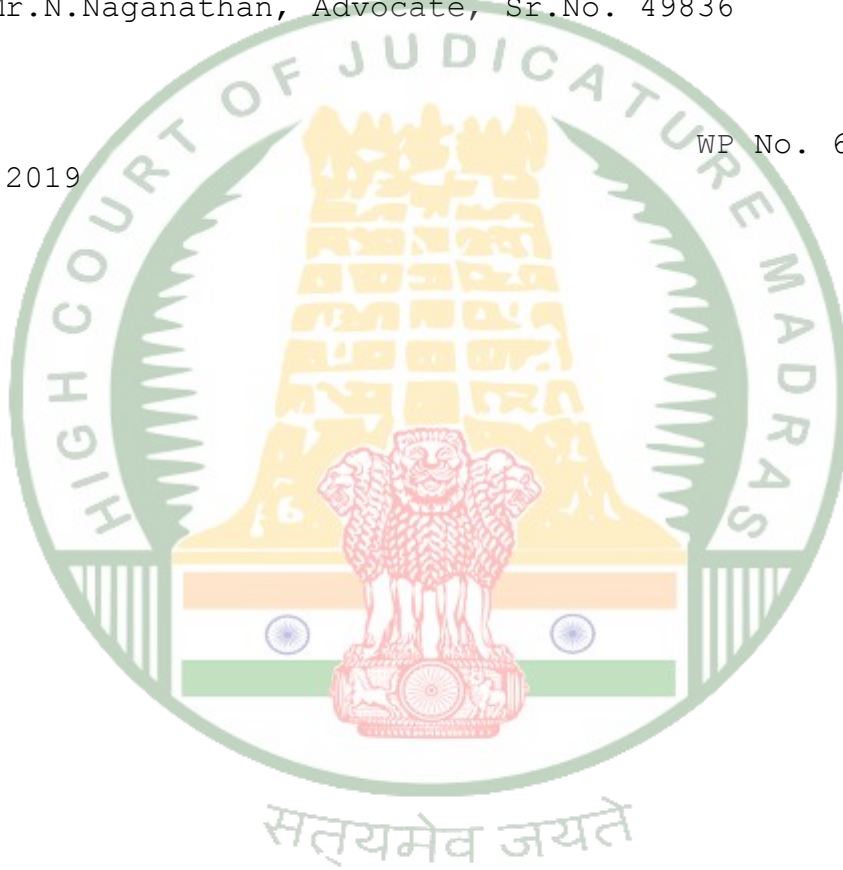
To

1. The District Collector and Chairman
District Level Vigilance Committee
Salem District, Salem
2. The Sub Collector
Mettur Dam
Salem District

+1 cc to Mr.N.Naganathan, Advocate, Sr.No. 49836

CSL/30.07.2019

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