

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2019

CORAM:

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

W.P.No.6635 of 2019

Tmt.N.Thangarani

... Petitioner

Vs.

The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri 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 Proceedings No.Pa.Mu.6197/2016/A4, dated 24.06.2018 which was signed on 15.02.2019, quash the same and direct the respondent to issue Community Certificate to the children of the petitioner, viz., 1.Dinesh Karthik and 2.Rithiga that they belong to Kurumans (ST) Community based upon the Community Certificate already issued to the petitioner and her father, brother and her close blood relative Manirathinam, which was verified by the State Level Scrutiny Committee in his proceedings No.6148/CVIII/2012, dated 07.05.2014.

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 Proceedings No.Pa.Mu.6197/2016/A4, dated 24.06.2018 which was signed on 15.02.2019, quash the same and direct the respondent to issue Community Certificate to the children of the petitioner, viz., 1.Dinesh Karthik and 2.Rithiga

that they belong to Kurumans (ST) Community based upon the Community Certificate already issued to the petitioner and her father, brother and her close blood relative Manirathinam, which was verified by the State Level Scrutiny Committee in his proceedings No.6148/CVIII/2012, dated 07.05.2014.

2. In the affidavit filed in support of the Writ Petition, it is averred by the petitioner that she belongs to Kurumans Community, which is classified as a Scheduled Tribe Community as per the Constitution (Scheduled Tribes) Order, 1950, as amended by the Scheduled Tribes Orders (Amendment) Act, 1976. She obtained Community Certificate on 31.10.1994 from the Revenue Divisional Officer, Dharmapuri that she belongs to Kurumans (ST) Community. The petitioner is working as a Secondary Grade Teacher in Kuttahalli Panchayat Union School, Dharmapuri and in her Service Register, her Community is entered as Kurumans (ST) Community.

3. It is further stated by the petitioner that her father had also obtained Community Certificate from the Deputy Tahsildar, Dharmapuri and her own brother M.Arulmani obtained Community Certificate from the respondent. The petitioner states that her maternal uncle's son M.Manirathinam's Community Certificate was verified by the State Level Scrutiny Committee and it was found to be genuine by the Committee. Since the School authorities directed the petitioner to produce the Community Certificate, the petitioner preferred an application to the respondent on 14.08.2015 requesting to issue Community Certificate to her children (1) Dinesh Karthik and (2) Rithiga. Along with the said application, the petitioner had enclosed the following documents in support of her claim:

- (i) The petitioner's Community Certificate;
- (ii) The petitioner's father's Community Certificate;
- (iii) The petitioner's own brother M.Arulmani's Community Certificate;
- (iv) Genuineness report issued by the State Level Scrutiny Committee in respect of the petitioner's maternal uncle's son Manirathinam;
- (v) The petitioner's children's School Certificate, and
- (vi) Service Register of the petitioner's father.

4. Since no order was passed, the petitioner has filed a Writ Petition in W.P.No.32604 of 2016 for a direction to issue Community Certificate to her children that they belong to Kurumans (ST) Community based upon the Community Certificate already issued to the petitioner and her father and brother. In the said Writ Petition, this Court passed an order on 19.09.2016 holding as follows:

"5. Considering the facts and circumstances of the case, we direct the respondent to consider the application dated 14.08.2015 preferred by the petitioner and verify the aspects as regards the Community Certificate already issued to the petitioner and her father and also her close blood relative M.Manirathinam, which was stated to be verified by State Level Scrutiny Committee by its proceedings No.6148/CVIII/2012, dated 07.05.2014 and pass necessary orders regarding issuance of Community Certificate to the petitioner's children in accordance with law, within a period of one month from the date of receipt of a copy of this order."

5. Thereafter, the respondent issued notice to the petitioner to appear for enquiry. Accordingly, the petitioner appeared for the enquiry and produced all the above documents to support her claim. Since no order was passed, the petitioner's counsel issued Contempt notice to the respondent. Only thereafter, the respondent communicated the impugned rejection order, dated 24.06.2018 which was signed on 15.02.2019 to her counsel holding that the other close relatives entry in the School record and Birth/Death Registers show that they belong to "Kurumbar and Kurumba" Community. Challenging the said rejection order dated 24.06.2018, the present Writ Petition is filed for the relief stated supra.

6. 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.

7. Heard the learned Government Advocate appearing for the respondent and perused the materials available on record.

8. 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's relatives were not cancelled and that the petitioner's maternal uncle's son Manirathinam's Community Certificate issued by the authority was found to be genuine by the State Level Scrutiny Committee. 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.

9. Accordingly, we direct the respondent to issue Kurumans (ST) Community Certificate to the petitioner's children (i) Dinesh Karthik and (ii) Rithiga, 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, 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, her father and her brother, 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 as directed above and pass appropriate orders on or before 31.07.2019.

10. 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,
Dharmapuri,
Dharmapuri District.

+1cc to S.Doraisamy, Advocate Sr.26385

+1cc to the Government Pleader sr.26845

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