

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 22.04.2019
CORAM:
THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.7088 of 2019

M.Sathese

.. Petitioner

Vs.

1. The District Collector,
Dharmapuri District,
Dharmapuri.
 2. The Revenue Divisional Officer/Sub-Collector,
Dharmapuri,
Dharmapuri District.
 3. The Tahsildar,
Nallampalli Taluk,
Dharmapuri District.
- .. Respondents

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 pertaining to the order passed by the second respondent in his proceedings in Na.Ka.No.A4/3679/2018, dated 15.12.2018 and quash the same and consequently direct the second respondent to issue Community Certificate to the petitioner's daughter, viz., Siva Nandhana to the effect that she belongs to "Kurichchan (ST) Community" based upon the Community Certificate already issued to the petitioner which was verified by the first respondent in ROC.No.3904/2012/L3, dated 22.05.2018, within the time frame as may be fixed by this Court.

For petitioner : Mr.K.Mahendran

For respondents : Mr.J.Pothiraj, Spl.G.P.

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 pertaining to the order passed by the second respondent in his proceedings in Na.Ka.No.A4/3679/2018, dated 15.12.2018 and quash the same and

consequently direct the second respondent to issue Community Certificate to the petitioner's daughter namely Siva Nandhana to the effect that she belongs to "Kurichchan (ST) Community" based upon the Community Certificate already issued to the petitioner which was verified by the first respondent in ROC.No.3904/2012/L3, dated 22.05.2018, within the time frame as may be fixed by this Court.

2. The facts leading to the filing of the present Writ Petition are as follows:

(a) The petitioner is residing in Trichy District and working as Senior Engineer in Bharat Heavy Electricals Limited (BHEL), Trichy and is a native of Dharmapuri District. He belongs to Kurichchan Community, which is a Scheduled Tribe (ST) Community.

(b) The petitioner's father and all of his family members were issued with Community Certificates to the effect that they belong to Kurichchan Community. His father applied for Community Certificate for the petitioner and his younger sister when they were minor, and the same were issued. Therefore, the petitioner and his sister, represented by their father filed a Writ Petition before this Court in W.P.No.31999 of 2004 to direct the second respondent to issue Community Certificate to the petitioner and his sister based on the application submitted by the petitioner's father. This Court, by order dated 16.04.2005, while allowing the Writ Petition, directed the second respondent herein to issue Community Certificate to the petitioner and his sister as belonging to Kurichchan Community within a period of two weeks from the date of receipt of a copy of the order.

(c) As per the above order of this Court, the second respondent, vide his proceedings in Na.Ka.13685/04/A5, dated 06.05.2005, issued Community Certificates to the effect that the petitioner and his sister belongs to Kurichchan Community. The petitioner further states that he is presently residing at Trichirapalli and his sister, namely Shankari was studying at NIIT, Trichirapalli, wherein for employment purpose, she was directed to produce the Community Certificate from the competent authority of Trichy District. Accordingly, his sister, namely Shankari once again made application to the Revenue Divisional Officer, Tiruchirappalli to issue another Community Certificate, which was not considered. Hence, his sister approached this Court in W.P.(MD).No.7742 of 2010 for issuance of a Writ of Mandamus to direct the Revenue Divisional Officer, Trichirappali to issue Community Certificate based on the application dated 03.06.2010 and the said Writ Petition was dismissed on the ground that already the competent authority of the area wherein they were having permanent residence, issued Community Certificate.

(d) Thereafter, the petitioner got appointment in Bharat Heavy Electricals Limited (BHEL), Trichy as Engineer Trainee under the Scheduled Tribe quota. After completing the training,

the BHEL authority sent a communication, dated 02.02.2012 to the District Collector, Dharmapuri District, the first respondent herein, requesting to verify the genuineness of the petitioner's Community Certificate and send a report. Challenging the same, the petitioner filed W.P.(MD).No.9268 of 2012. A Division Bench of this Court, by order dated 10.07.2012, dismissed the said Writ Petition.

(e) Aggrieved by the said order of this Court, dated 10.07.2012, the petitioner filed a Special Leave Petition before the Supreme Court in S.L.P.No.4937 of 2013 and the Apex Court, by order dated 11.11.2013, dismissed the said S.L.P. observing as follows:

"Heard the learned counsel for the petitioner as well as learned counsel for the respondents. All that the Bharat Heavy Electrical Limited has done is that it has written a letter dated 2nd February, 2012 addressed to the District Collector, Dharmapuri District, Tamil Nadu, seeking verification of the caste status of the petitioner. This is on the basis of the Central Government's office Memorandum dated 9th September, 2005 issued by the Ministry of Public Grievances and Pensions, Department of Personnel and Training. It is at that stage that the petitioner chose to challenge the letter dated 2nd February, 2012 contending that the entire enquiry was not called for. The High Court has dismissed the writ petition, therefore this Special Leave Petition. The petitioner has many good things to say in support of his claim, but he should say the same before the Collector, Dharmapuri. We do not see any reason to interfere. The Special Leave Petition is dismissed."

(f) Pursuant to the above order of the Supreme Court, the first respondent, after verifying the documents and related files, found that petitioner's Community Certificate is genuine. Subsequently, the petitioner made an application dated 04.06.2018 to the second respondent along with all necessary documents seeking for Community Certificate for his daughter, namely Siva Nandhana to the effect that she belongs to Kurichchan Community. The petitioner has also enclosed the Community Certificate issued to the petitioner, his sister and his blood relatives. But the second respondent, vide Memo in Na.Ka.No.A4/3679/2018, dated 15.12.2018, directed the third respondent to conduct a detailed enquiry and send report.

(g) Already the first respondent issued Community Certificate indicating the Community of the petitioner as Kurichchan Community and his relatives and the same were verified by the State Level Scrutiny Committee, which found them to be genuine. But the second respondent, without considering the said aspect, directed the third respondent to submit his report, by the impugned order. Hence, the petitioner has filed the above Writ Petition for the prayer stated supra.

3. When the Writ Petition is taken up for hearing, the learned counsel for the petitioner made his submissions adverting to the averments made in the affidavit filed in support of the Writ Petition.

4. This Court also heard the submissions of the learned Special Government Pleader appearing for the respondents on the above aspects.

5. Considering the submissions made by the learned counsel on both sides, it is seen that the petitioner is basing his claim mainly based on the communication of the first respondent/District Collector, Dharmapuri, dated 22.05.2018 addressed to the Executive HR Recruitment, BHEL, Trichy, wherein it was observed that the Community Certificate issued to the petitioner was found to be genuine. The said order dated 22.05.2018 reads as follows:

"ROC.No.3904/2012/L3,
dt.22.05.2018

Sub: Caste Verification -
Scheduled Caste - Kuruchan
Certificate - Verification of
caste status in respect of
Mr.Sathesh S/o
B.Mahendiran, Engineer Trainee -
Report sent - reg.

Ref: The Executive/HR
(Recruitment)
Lr.No.TP:HR.CCV/6136958,
dt. 02.02.2012.

With reference to your letter cited, I wish to state that based on the direction of Hon'ble High Court of Madras the Scheduled Tribe Kuruchan Certificate (bearing No.178104) was issued Thiru.M.Sathesh S/o. Mahendiran vide Dharmapuri Revenue Divisional Officer ROC.13685/2004/A5, dt.06.05.2005.

The Petitioner Mr.Sathesh filed special Leave Petition (No.4937/2013) in Hon'ble Supreme Court and direct that the District Collector Dharmapuri should verify the genuineness of the caste of the Petitioner within period of three months.

As per Hon'ble Supreme Court direction, I verified the document and related files on the issue of Scheduled Tribe Kuruchan Certificate to Thiru.Sathesh and is found Genuine."

6. As observed in the above communication and since it is already found that the Community Certificate which was earlier issued to the petitioner stating that he belongs of Kurichchan Community, was found to be genuine by the State Level Scrutiny Committee, there cannot be any impediment for the second respondent to issue Community Certificate to the petitioner's daughter, namely Siva Nandhana and hence, the petitioner is entitled to succeed in the present Writ Petition.

7. Accordingly, the Writ Petition is allowed. The impugned order dated 15.12.2018 is quashed. The second respondent-RDO, Dharmapuri is directed to issue Community Certificate to the petitioner's daughter, namely Siva Nandhana to the effect that she belongs to Kurichchan (ST) Community, within a period of one week from the date of receipt of a copy of this order. No Costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

CS

To

1. The District Collector,
Dharmapuri District,
Dharmapuri.
2. The Revenue Divisional Officer/Sub-Collector,
Dharmapuri,
Dharmapuri District.

3. The Tahsildar,
Nallampalli Taluk,
Dharmapuri District.

+1 cc to Mr.K.Mahendran, Advocate, Sr.No. 38432
+1 cc to The Government Pleader, Sr.No. 38834

W.P.No.7088 of 2019

NMI (CO)
CSL/03.06.2019



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