

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2019

CORAM:

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

W.P.No.7302 of 2019

C.Panneerselvam .. Petitioner
Vs.
The Revenue Divisional Officer,
Harur,
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.995/2016/A3, dated 07.11.2018 signed on 11.01.2019 on the file of the respondent, quash the same and direct the respondent to issue Community Certificate to the petitioner's children, viz., (1) P.Nasan Hari and (2) P.Kanishka that they belong to Kurumans (ST) Community based upon the Community Certificate already issued to the petitioner and his brother C.Senthilkumar.

For petitioner : Mr.S.Doraisamy

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 relating to the order of rejection passed in proceedings No.Pa.Mu.995/2016/A3, dated 07.11.2018, signed on 11.01.2019 on the file of the respondent, quash the same and direct the respondent to issue Community Certificate to the petitioner's children, viz., (1) P.Nasan Hari and (2) P.Kanishka that they belong to Kurumans (ST) Community based upon the Community Certificate already issued to the petitioner and his brother C.Senthilkumar.

2. According to the petitioner, he belongs to Kurumans Community, which is a Scheduled Tribe Community. In all his school records, his community is entered as Kurumans. The petitioner obtained Community Certificate from the Revenue Divisional Officer, Dharmapuri on 19.07.1996 and on the same day, his own brother C.Senthil Kumar also obtained Community Certificate, stating that both of them belong to Kurumans (ST) Community. The petitioner is having two children, namely (1) P.Nasan Hari (studying V Standard, aged 10 years) and P.Kanishka (studying III Std., aged 8 years). Since the school authority insisted to produce the Community Certificate for his children, the petitioner preferred an application to the respondent on 12.05.2004, requesting to issue Community Certificate to his children stating that they belong to Kurumans (ST) Community. After two years, the respondent issued notice to the petitioner on 27.10.2016 to appear for the enquiry to be held on 28.11.2016. Accordingly, the petitioner has appeared for the enquiry and submitted the following documents to support his claim:

- (i) The petitioner's Community Certificate, dated 19.07.1996;
- (ii) Community Certificate of the petitioner's brother C.Senthilkumar;
- (iii) State Level Scrutiny Report of the petitioner's mother's own brother's daughter G.Vani;
- (iv) The petitioner's Service Register;
- (v) The petitioner's School Transfer Certificate, and
- (vi) School Transfer Certificate of the petitioner's children.

3. It is the further case of the petitioner that thereafter, the respondent forwarded the petitioner's application to the Tahsildar to conduct enquiry and submit a report. Subsequently, the Tahsildar conducted detailed enquiry and submitted a report and concluded that the petitioner belongs to Kurumans (ST) Community. Since no order was passed, the petitioner filed a Writ Petition in W.P.No.3861 of 2018 for a direction to the respondent to issue Community Certificate to the petitioner's children stating that they belong to Kurumans (ST) Community based upon the Community Certificate already possessed by the petitioner and his brother C.Senthilkumar. This Court, by order dated 21.02.2018 passed in the said Writ Petition, directed the respondent to dispose of the petitioner's application. Thereafter, the Tahsildar, Pappireddipatti conducted enquiry and submitted a report stating that the petitioner belongs to Kurumans (ST) Community. However, the respondent rejected the application on the ground that the petitioner belongs to Kurumbar Community. It is further submitted by the petitioner that this Court, in number of cases, held that there is no such community called Kurumbar and the Secretary to Government of Adi

Dravidar and Tribal Welfare Department, Secretariat, Chennai, issued a Circular in Letter No.901/CV1/2014-1, dated 18.03.2014 to all the competent authorities to recall the Certificates already issued as Kurumbar and not to rely upon the name as Kurumbar in any of the proceedings. But, by the impugned order, dated 07.11.2018, the claim of the petitioner was rejected, against which, the present Writ Petition is filed by the petitioner for the relief stated supra.

4. When the matter is taken up for consideration, learned counsel for the petitioner made detailed submissions by adverting to the averments made in the affidavit filed in support of the Writ Petition. However, learned Special Government Pleader appearing for the respondent, by filing counter affidavit, opposed the prayer of the petitioner stating that pursuant to the order passed by this Court on 21.02.2018 in W.P.No.3861 of 2018, the S.T. Community Certificate issuing authority conducted proper enquiry and analysed the reports of the subordinate officers and hence by following the said procedure, it is concluded that the petitioner does not belong to Kurumans (ST) Community. The birth details and entries of the School Registers show that the petitioner belongs to Kurumbar/Kurumban/Kurumba Community. Even though they were recorded in different names according to their own style, they are all coming under one and the same name as Kurumba/Kurumba Gounder under MBC category only, but for adding of a letter 'r' in the same Community, they cannot be considered under S.T. category. It is further stated by the learned Special Government Pleader that the petitioner's father Chinna's birth entry was recorded as Kurumbar on 21.02.1952 and his children's/son's, by name Senthilkumar and Panneerslevam's Community status was recorded as Kurumans and Kuruman Community respectively, while admitting in the Panchayat Union Elementary School, Regadahalli Village, Kadathur Revenue Firkha, Pappireddipatti Taluk. Their Community status was recorded in different names according to their choice. The family of the petitioner does not belong to Kurumans under ST group. Accordingly, the petitioner's application was rejected by the impugned order by following the principles of natural justice.

5. Be that as it may. We find that as on date, the petitioner's Community Certificate and his brother's Community Certificate were not cancelled. Hence, the children of the petitioner are entitled to get Community Certificate indicating the name of the Community as "Kurumans". 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. 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.

6. Accordingly, we direct the respondent to issue Kurumans (ST) Community Certificate to the petitioner's children named above, 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 said Community Certificate to the petitioner's children named above, the respondent shall send the same for verification to the State Level Scrutiny Committee, including the Community Certificates already issued to the petitioner's relatives, 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 one that will be issued to the petitioner's children and pass appropriate orders on or before 31.08.2019.

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

cs

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Revenue Divisional Officer,
Harur,
Dharmapuri District.

2.The State Level Scrutiny Committee,
Dharmapuri.

+1cc to Mr.S.Doraisamy,Advocate SR.No.36520

+1cc to The Govt.Pleader, SR.NO..No.37043.

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Kak(23/04/2019)