

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on: 09.07.2019
Orders Pronounced on : 02.08.2019

ORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.7979, 8816, 8341, 8386, 8385, 8826, 7986, 8387, 8822,
8210, 8934 and 8389 of 2019

1. R. SANJAI ..PETITIONER IN WP NO.7979/2019
1. J. AMUTHAMANI
2. J. DEEPA
3. R. THARUN VIJAI (MINOR)
4. R. GOWDHAM VIJAI (MINOR) ..PETITIONERS IN WP NO.8816/2019
(Minor Petitioners rep by their J.Deepa)
1. N.R. MAHIZHAN
2. V. NAVANEETHA ..PETITIONERS IN WP NO.8341/2019
1. C. GOVINDARAJU ..PETITIONER IN WP NO.8386/2019
1. R.SELVARAJ ..PETITIONER IN WP NO.8385/2019
1. R.KALAISELVI
2. R.THAMARAISELVAN ..PETITIONERS IN WP NO.8826/2019
1. N.DAKSHINAMOORTHY ..PETITIONER IN WP NO.7986/2019
1. P.SIVAKUMAR
2. P.ABINAYA ..PETITIONERS IN WP NO.8387/2019
1. S.ARUNKUMAR
2. D.SARANYA
3. NAVANEETH ARJUN (MINOR) ..PETITIONERS IN WP NO.8822/2019
(Minor Rep by his Father S.Arunkumar)
1. S.PRAVEEN
2. S.NITHYA ..PETITIONERS IN WP NO.8210/2019
1. P.S.PRABHAKARAN ..PETITIONER IN WP NO.8934/2019
1. N.KOUSHIKA
2. N.KEERTHIKA ..PETITIONERS IN WP NO.8389/2019

-VS-

1. THE DISTRICT COLLECTOR AND CHAIRMAN,
DISTRICT LEVEL VIGILANCE COMMITTEE,
SALEM DISTRICT, SALEM.
2. THE SUB COLLECTOR,
METTUR DAM SALEM DISTRICT.

..Respondents in all Writ Petitions

These Writ Petitions filed under Article 226 of the Constitution of India, Praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent proceedings Na.Ka.No.150/2018/the-A, dated 26.09.2018 and quash the same and,

i) directing the respondents to issue community certificate to the petitioner viz.R.Sanjai to the effect that the petitioner belong to the Konda Reddy community (Schedule Tribe) on the basis of the community certificate issued to petitioners father B. Rajendran vide community certificate dated 09.06.1977. (WP.No.7979 of 2019)

ii) directing the respondents to issue community the respondents to issue community certificate to the petitioners 1 to 4 viz. J. Amuthamani J.Deepa minor R.Tharun Vijai and Minor R.Gowdham Vijai to the effect that they are belong to the Konda Reddy community (Schedule Tribe) on the basis of the community certificate issued to petitioner's father M.Jayaraman vide community certificate No.Dis.2164/76 dated 02.02.1976. (WP.No.8816 of 2019)

iii)directing the respondents to issue community the respondents to issue community certificate to the 1st and 2nd petitioners viz. N.R.Mahizhan and V.Navaneetha to the effect that they are belong to the Konda Reddy community (Schedule Tribe) on the basis of the community certificate issued to N.G.Ramalingam vide community certificate dated 12.09.1978. (WP.No.8341 of 2019)

iv) directing the respondents to issue community certificate to the petitioner children viz. G.Jawahar and G.Yashika to the effect that they belong to the Konda Reddy Community (Schedule Tribe) on the basis of the petitioner community certificate dated 21.10.1988 issued by Tahsildar Mettur Dam.(WP.No.8386 of 2019)

v) directing the respondents to issue community certificate to the petitioner children viz. Hema Sri and Nandha to the effect that they belong to the Konda Reddy Community (Schedule

Tribe) on the basis of the petitioner community certificate dated 30.06.1986 (WP.No.8385 of 2019)

vi) directing the respondents to issue community the respondents to issue community certificate to the petitioners viz. R.Kalaiselvi and R.Thamaraiselvan to the effect that we are belong to the Konda Reddy Community (Schedule Tribe) on the basis of the community Certificate issued to the petitioner father P.K.Rajendran vide community certificate dated 20.04.1979. (WP.No.8826 of 2019)

vii) directing the respondents to issue community certificate to the petitioner Children viz.Minor D.Mythresh and D.Sriram to the effect that the petitioner belong to the konda Reddy community (schedule Tribe) on the basis of the community certificate issued to petitioner fathers elder brother Kuppavi Reddy vide community certificate dated 10.2.1976.(WP.No.7986 of 2019)

viii) directing the respondents to issue community certificate to the petitioners viz. P.Sivakumar and P.Abinaya to the effect that petitiners are belonging to the Konda Reddy Community (Schedule Tribe) on the basis of the petitioner father elder brother community certificate dated 30.06.1986 issued by Tahsildar Mettur Dam.(WP.No.8387 of 2019)

ix) directing the respondents to issue community the respondents to issue community certificate to the petitioners viz S.Arunkumar D.Saranya and Minor Navaneeth Arjun to the effect that we are belong to the Konda Reddy Community (Schedule Tribe) on the basis of the community Certificate issued to the 1st petitioner sister vide community certificate dated 30.06.1986.(WP.No.8822 of 2019)

x)directing the respondents to issue community the respondents to issue community certificate to the petitioners viz. S.Praveen and S.Nithya to the effect that they are belong to the Konda Reddy Community (Schedule Tribe) on the basis of the community certificate issued to petitioners Paternal uncle K.Govindaraj vide community certificate dated 06.03.1979. (WP.No.8210 of 2019)

xi)directing the respondents to issue community certificate to the petitioner viz. P.S. Prabhakaran to the effect that the petitioner belong to the Konda Reddy community (Schedule Tribe) on the basis of the community certificate issued to petitioner maternal uncle vide community certificate dated 07.06.1974. (WP.No.8934 of 2019)

xii)directing the respondents to issue community certificate to the petitioners viz. N.Koushika and N.Keerthika to the effect that petitioners are belonging to the Konda Reddy Community (Schedule Tribe) on the basis of the community certificate issued to petitioners father B.Nagarajan vide community Certificate dated 14.09.1978 (WP.No.8389 of 2019)

For petitioner in
all Writ Petitions : Mr.L.Chandrakumar for
M/s.N.Naganathan

For respondents in
all Writ Petitions : Ms.Narmadha Sampath,
Addl. Advocate General,
assisted by
Mr.V.Shanmuga Sundar, Spl.G.P.

COMMON ORDER

R.SUBBIAH, J

Since the issue involved in all these Writ Petitions, is one and the same, the same are being disposed of by this common order.

2. As the facts are almost similar, it is enough to discuss the facts in W.P.No.7979 of 2019, as follows:

The petitioner's father has obtained Konda Reddy (Scheduled Tribe) Community Certificate on 09.06.1977 from the Tahsildar, Mettur Dam. It is further stated by the petitioner that Konda Reddy Community members are migrated Scheduled Tribes who are originally inhabited in Mettur Taluk, Salem District, Bhavani Taluk of Erode District and Pennagaram Taluk in Tamil Nadu District. Since the petitioner's father is having valid Community Certificate, the petitioner applied for Community Certificate on 06.10.2015 before the second respondent. In fact, number of the petitioner's family relatives had been issued with Community Certificate. Hence, it is the stand of the petitioner that he is entitled for issuance of Community Certificate for the purpose of higher education. The second respondent, without scrutinising the documents in proper manner, without conducting proper enquiry, based on immaterial documents and with deliberate intention to curtail the rights of the ST members, by proceedings dated 11.01.2017, had rejected the application stating that no Konda Reddy Community members are residing in the village of the petitioner and challenging the said rejection order, the petitioner filed W.P.No.10628 of 2017, and as per the order of this Court, dated 24.07.2017 in W.P.No.10628 of 2017, the petitioner filed appeal before the first respondent, which was rejected by the impugned proceedings, dated 26.09.2018

Challenging the said order of the second respondent, the petitioner filed appeal before the first respondent, who rejected the said appeal by the impugned proceedings, dated 26.09.2018, against which, W.P.No.7979 of 2019 is filed by the petitioner seeking to quash the said proceedings, dated 26.09.2018 and to direct the respondents to issue Community Certificate to the petitioner to the effect that the petitioner belongs to Konda Reddy Community (Scheduled Tribe) on the basis of the Community Certificate issued to his father B.Rajendran, vide Community Certificate, dated 09.06.1977.

3. The second respondent in W.P.No.7979 of 2019 has filed counter affidavit, inter-alia stating that it is usual and mandatory procedure to mention the Office Register Number in the Community Certificate, but the Community Certificate of the petitioner's father does not contain any Register Number. So, the genuineness of the Community Certificate was highly doubtful and that could not be the base factor to issue Hindu Konda Reddis Community Certificate to the petitioner. Further, in the Census 1961, the population returned in the State of Madras for the Konda Reddi Tribe was 8 and of this, 3 were working as Labourer in Madras (Chennai) City, while the rest were spread over two other Districts. The Government of Tamil Nadu had also noticed that there was a sudden spurt in the families of Konda Reddis between the Census of 1961 and 1971. All the documents submitted by the petitioner, were verified, besides this, local enquiry was also conducted and that the second respondent came to a conclusion that the petitioner and his family members do not belong to Konda Reddy Community, but they belong to Hindu Reddiar Community, which reveals from the School Records, Birth Register and Service Records of the petitioner's parents and their relatives. 13 Community Certificates were issued as per Court direction, out of which, five were sent to the State Level Scrutiny Committee for verifying the genuineness. The School Records of the petitioner's father shows that he belongs to Hindu Reddiyar. It is true to say that the petitioner and his family members belong to Hindu Reddy Community, which is classified as Forward Community. The close relatives of the petitioner belong to Hindu Reddiar. Further, there is a provision of appeal as against the order of the first respondent, as per G.O.(Ms).No.147, Revenue RA.3(2) Department, dated 17.03.2016. The petitioner had not filed appeal. Hence, the second respondent prayed for dismissal of W.P.No.7979 of 2019.

4. Heard the submissions of both sides and perused the materials available on record.

5. It is the contention of the learned counsel for the petitioner(s) that the father of the petitioner(s)/petitioner(s) being father(s), as the case may be, is/are having a valid Community Certificate and therefore, the children of the petitioner(s) or the petitioner(s) being children, as the case may be, are also entitled for the issuance of ST Community Certificate.

6. There is no doubt that if the father(s) is/are having a valid Community Certificates and if the said Community Certificates are not cancelled as on date, this Court's normal practice is that the concerned respondent/authority will be directed to issue Community Certificate and thereafter send the said Community Certificate to the State Level Scrutiny Committee for verification of the genuineness of the same.

7. Even in the instant cases, the fathers' Community Certificates were not yet cancelled so far. So long as the fathers' Community Certificate having been not cancelled till date, there is no impediment to issue Community Certificate to the children.

8. Therefore, in all these Writ Petitions, we are of the opinion that in the absence of cancellation of the Community Certificates of the fathers, it is not open for the respondent (s) to reject the application for issuance of the Community Certificate for the children. Hence, the children are entitled for issuance of Community Certificates.

9. Accordingly, this Court directs the respondents to issue Provisional Community Certificates to the petitioners' children or the petitioner(s) being children, as the case may be, by making an endorsement on the same that as per the, direction of this Court, the said Community Certificates is/are being issued, subject to the verification of the genuineness of the same by the State Level Scrutiny Committee. After the conformity of the genuineness of the said Community Certificates by the State Level Scrutiny Committee, the respondent(s) shall issue permanent Community Certificates to the petitioners' children or the petitioner(s) being the children, as the case may be.

10. With the above observations and directions, these Writ Petitions are disposed of. No Costs.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

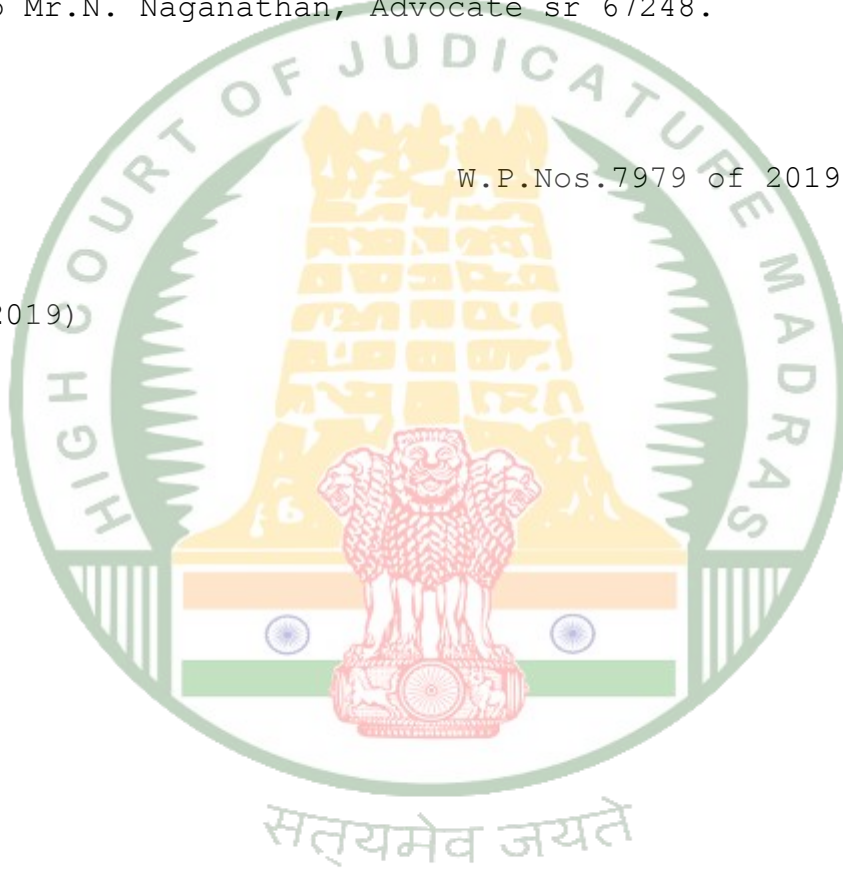
To

1. THE DISTRICT COLLECTOR AND CHAIRMAN,
DISTRICT LEVEL VIGILANCE COMMITTEE,
SALEM DISTRICT, SALEM.
2. THE SUB COLLECTOR,
METTUR DAM SALEM DISTRICT.

+12 Ccs to Mr.N. Naganathan, Advocate sr 67248.

W.P.Nos.7979 of 2019 etc. batch

RP (CO)
SP(20/08/2019)



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