

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2019

CORAM

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

Writ Petition No.9006 of 2019

S.Sivaji
S/o.Siddhan

...Petitioner

Vs

The Revenue Divisional Officer,
Krishnagiri,
Krishnagiri District.

... Respondent

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order of rejection passed in proceedings No.Na.Ka.5431/2018/F dated 08.03.2019 on the file of the respondent and quash the same and direct the respondent to issue Community Certificate to the petitioner that he belongs to Kurumans (ST) Community based upon the Community Certificate already issued to the family members of the petitioner.

For Petitioner : Mr.S.Doraiswamy

For Respondents: Mr.V.Shanmuga Sundar
Special Government Pleader

सत्यमेव जयते
O R D E R

[Order was delivered by R.SUBBIAH,J]

Petitioner has filed this writ petition seeking quash of the order of rejection passed by the respondent in proceedings in No.Na.Ka.5431/2018/F dated 08.03.2019 and consequently, direct the respondent to issue Community Certificate to the petitioner that he belongs to Kurumans (ST) Community based upon the Community Certificate already issued to the family members of the petitioner.

2. Heard learned counsel for petitioner and learned Special Government Pleader for respondent.

3. According to petitioner, he belongs to Kurumans Community, which is a Scheduled Tribe Community, but he did not obtain Community Certificate. In the petitioner's school records, petitioner's community was entered as Kurumans (ST) Community. Petitioner is working as a private Car driver and hence, there is no necessity for him to obtain Community Certificate. On 06.04.2016, petitioner's wife submitted an application to the respondent requesting to issue Community Certificate to her and her children S.Kamali and S.Kalanidhi. Since no order was passed, petitioner's wife filed W.P.No.19543 of 2017 before this Court and this Court, under orders dated 31.07.2017, has held as follows:

'5. Considering the fact that the petitioner has preferred an application before the respondent on 06.04.2016, praying for issuance of Community Certificate in her favour and her children, and also sent a reminder on 08.05.2017, this Court taking note of the fact that the certificate in question have not been issued by the respondent, at this stage, without going into the merits of the matter and also not expressing any opinion about the same, simplicitor directs the respondent/Revenue Divisional Officer, Krishnagiri District, to look into the application of the petitioner dated 06.04.2016 and subsequent reminder application dated 08.05.2017 and to dispose of the said application within a period of two weeks from the date of receipt of copy of this order. It is open to the respondent to provide an enough opportunity to the petitioner while passing a reasoned speaking order adverting to all the points raised in regard to the request for issuance of Community Certificate to the petitioner in her favour and also in favour of her children. Also, it is made clear that the petitioner shall co-operate with the respondent/the Revenue Divisional Officer, Krishnagiri, Krishnagiri District and the respondent will take all earnest efforts to dispose of the application dated 06.04.2016 and the reminder application dated 08.05.2017 within the time prescribed by this Court. Soon after disposal of the application of the petitioner dated 06.04.2016 and the subsequent reminder application dated 08.05.2017 within the time adumbrated by this Court as aforesaid, the respondent/the Revenue Divisional Officer, Krishnagiri District shall send a compliance report addressed to the Registrar Judicial of this Court without fail.'

Pursuant thereto, an enquiry was conducted and Community Certificates were issued to the petitioner's wife and children. Subsequently, petitioner has submitted an application on

22.12.2017 to the respondent seeking issuance of Community Certificate to him as he required such Certificate for availing loan in Public Sector Bank under ST category. Along with the said application, petitioner has enclosed the following documents:

- (1)Community Certificate of petitioner's children viz., S.Kamali and S.Kalanidhi.
- (2)Community Certificate of petitioner's wife S.Sathiyavathi
- (3)Petitioner's Elementary School records.
- (4)School Transfer Certificate of petitioner's children.
- (5)Family Tree Certificate.

Since no order was passed, petitioner filed W.P.No.29044 of 2018 before this Court and this Court, under orders dated 02.11.2018, has directed as follows:

'4. It is not in dispute that the petitioner's wife and children have already been issued with the community certificates stating that they belong to Kurumans (ST) community. Hence, there cannot be any impediment for the respondent to consider the application of the petitioner for issuance of community certificate. Accordingly, the respondent is directed to consider the application of the petitioner for issuance of Kurumans (ST) community certificate and pass appropriate orders positively, of course, after holding enquiry, within a period of four weeks from the date of receipt of a copy of this order.'

The grievance of the petitioner is that though this Court has issued a positive direction, respondent has rejected the application of petitioner without application of mind. Hence, petitioner has filed the present Writ Petition.

4. Heard learned Special Government Pleader for respondent on the above submissions.

5. While passing orders in W.P.No.29044 of 2018 dated 02.11.2018, this Court has taken note of the fact that petitioner's wife and children were already issued Community Certificate stating that they belong to Kurumans (ST) Community and directed the respondent to consider the petitioner's application and pass appropriate orders positively after holding an enquiry. However, without considering the said position, respondent has erroneously rejected the petitioner's application resulting in filing of the present Writ Petition.

For the aforesaid reasons, the Writ Petition is allowed and the impugned order passed by the respondent in proceedings No.Na.Ka.5431/2018/F dated 08.03.2019, is set aside. Respondent is directed to issue Community Certificate to the petitioner

based on the Community Certificate already issued to petitioner's wife and children, as early as possible, and in any event, within a period of two weeks from the date of receipt of this order. This Court makes it clear that after issuance of Community Certificate to the petitioner, the respondent is at liberty to sent the same for verification to the State Level Scrutiny Committee. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

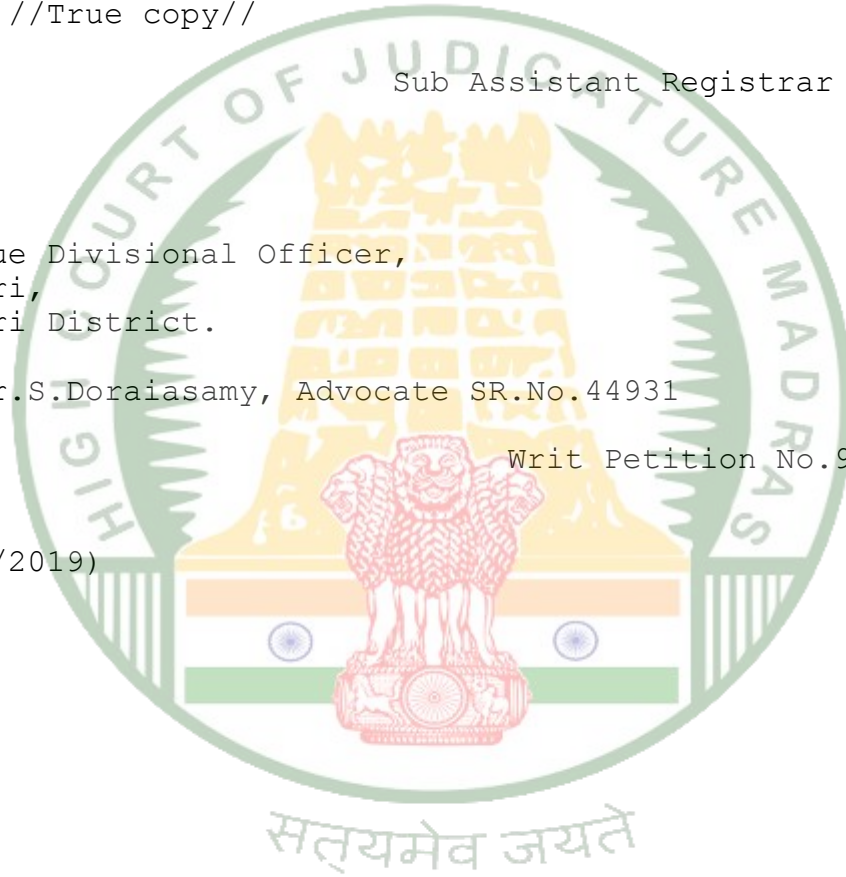
gm

To
The Revenue Divisional Officer,
Krishnagiri,
Krishnagiri District.

+1cc to Mr.S.Doraiasamy, Advocate SR.No.44931

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RV (CO)
GMY (07/06/2019)



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