

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-04-2019

CORAM:

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

Writ Petition No. 10590 of 2019
and
WMP No. 11086 of 2019

R.I. Abirami

.. Petitioner

Versus

1. The Director of Public Instructions
DPI Campus, College Road
Chennai - 600 006
2. The Secretary
Tamil Nadu Public Service Commission
Office of TNPSC
VOC Nagar, Park Town
Chennai - 600 003
3. The Revenue Divisional Officer
Chengalpattu Taluk
4. The Zonal Tahsildar
Chengalpattu Taluk

(Respondents 3 and 4 were impleaded as per the order dated 24.04.2019 passed in WMP No. 12549 of 2019 in WP No. 10590 of 2019) .. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the first respondent to restore the petitioner's community certificate as Hindu Narikuravar in her Higher Secondary and B.E. Transfer Certificate dated 27.06.1975.

For Petitioner : Ms. A. Arulmozhi

For Petitioner : Mr. J. Pothiraj
Special Government Pleader

ORDER

(Order of the Court was made by R. Subbiah, J)

The petitioner has come forward with this writ petition praying to issue a Mandamus directing the first respondent to restore her community certificate as Hindu Narikuravar in her Higher Secondary and B.E. Transfer Certificate dated 27.06.1975.

2. In the affidavit filed in support of the writ petition, it is stated by the petitioner that she is an Engineering Graduate. It is further stated that her mother belongs to Hindu Narikuravar community, which is classified as Most Backward community and her father belongs to Hindu Kammalar community, which is classified as a Backward community. According to the petitioner, her mother was appointed as a Forest Watcher by the Government of Tamil Nadu by relaxing certain conditions for appointment and subsequently she got promoted to the post of Forest Department. As the petitioner's father and mother belong to different community and their marriage is an inter-caste marriage, the petitioner's mother, petitioner and her sister were not recognised as a member of the community, to which her father belonged to. In fact, due to the matrimonial differences, the marriage solemnised between the petitioner's parents was dissolved by a decree of divorce dated 31.08.2006 passed in FCOP No. 1208 of 2006 on the file of II Additional Family Court, Chennai. It is also stated that from the birth of the petitioner, she and her sister were living along with her mother's family and relatives. According to the petitioner, in the school records, her community was recorded as Hindu Narikuravar and the petitioner completed higher secondary education during the year 2012. As the mother of the petitioner was pre-occupied

with her work and unable to accompany the petitioner to obtain her transfer certificate from the school, the petitioner's father accompanied her and produced a community certificate with his community name and the same was entered in the school records of the petitioner, including the transfer certificate. The petitioner also would further contend that based on such records issued by the school, she applied for the post of Forest Apprentice (Forest Ranger) in response to the notification issued by the second respondent on 01.08.2018 in which she mentioned her community as Backward Community, to which her father belonged to.

3. The grievance of the petitioner appears to be that recently, she came to know that the Government of Tamil Nadu has issued an order in G.O. Ms. No.477, Social Welfare Department dated 27.06.1975 ordering that the children born out of the marriage between inter-caste couple shall be considered as the one who belong to the community of the father or the mother according to the declaration of the parents. On coming to know about the aforesaid order passed by the Government, the petitioner gave a representation dated 11.03.2019 to the respondents 1 and 2 to consider her under the Most Backward Community in the selection process for appointment to the post of Forest Apprentice (Forest Ranger) as per the order in G.O. Ms. No.477, Social Welfare Department dated 27.06.1975, however, till date, no order has been passed.

4. When the writ petition is taken up for consideration, the learned counsel for the petitioner made detailed submission by reiterating the averments made in the affidavit filed in support of the writ petition and contend that the

petitioner never resided along with her father, but she and her sister were residing along with their mother. Further, after a decree of divorce was passed dissolving the marriage solemnised between the petitioner's father and mother, the petitioner and her sister continued to reside along with her mother and that her father is residing separately. Though in the original testimonials, the community of the petitioner is mentioned as "*Narikurava*" in the year 2002, as soon as the petitioner completed her higher secondary education, for the purpose of collecting the transfer certificate and other connected records, the petitioner was accompanied by her father who produced his community certificate, which resulted in entering the community of the petitioner as Backward community to which her father belonged to. Therefore, when the petitioner applied for appointment to the post of Forest Apprentice (Forest Watcher), she mentioned her community as Backward community, to which her father belonged to. Later, she came to know that the government has passed an order in G.O. Ms. No.477 dated 27.06.1975 as per which the petitioner can claim herself to belong to the community of her father or mother. However, immediately on coming to know about the order passed by the Government, the petitioner submitted a representation dated 11.03.2019 to the respondents 1 and 2 seeking to treat her community as Most Backward community, to which her mother belonged to, till date, no order has been passed. The learned counsel for the petitioner therefore prayed this Court to issue appropriate direction to the respondents to consider the representation dated 11.03.2019 of the petitioner and to pass appropriate orders thereof on merits.

5. On the above contention, we have heard the learned Special

Government Pleader for the respondents and perused the material records placed.

6. Admittedly, as per G.O. Ms. No.477, Social Welfare Department dated 27.06.1975 issued by the Government, the petitioner, whose parents contracted an inter-caste marriage, can claim herself to either belong to the community of her father or mother as per the declaration to be given by her parents. However, it is claimed that the petitioner, on the basis of the testimonials issued by the school authorities, applied to the post of Forest Apprentice (Forest Ranger) under the Backward community to which her father belonged to, when, she can apply for such post under the Most Backward Community, to which her mother belonged to, in the light of the order passed by the Government in G.O. Ms. No. 477, Social Welfare Department dated 27.06.1975. However, the petitioner has erroneously submitted an application to the respondents 1 and 2 for appointment to the post of Forest Apprentice (Forest Watcher) by indicating the community as Backward Community, to which her father belonged to, even though there is no embargo for the petitioner to claim herself to belong to Most Backward Community to which her mother belonged to, as per the aforesaid order passed by the Government.

7. Having regard to the above, the petitioner herein is directed to submit a fresh representation to the fourth respondent herein along with a copy of this order, forthwith. On receipt of the such representation from the petitioner, the fourth respondent is directed cause an enquiry, ascertain as to whether the petitioner is residing along with her mother and whether the petitioner belonged to Most Backward Community to which her mother belonged to, as per G.O. Ms. No. 477, Social Welfare Department dated 27.06.1975 and then pass appropriate orders on merits and in accordance with law within a period of two weeks. The outcome of the enquiry may be intimated by the fourth respondent to the

respondents 1 and 2 herein for considering the claim of the petitioner for appointment to the post of Forest Apprentice (Forest Watcher)

With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(R.P.S.J.,) (K.R.J.,)

27-04-2019

rsh

Index : No

To

1. The Director of Public Instructions
DPI Campus, College Road
Chennai - 600 006
2. The Secretary
Tamil Nadu Public Service Commission
Office of TNPSC
VOC Nagar, Park Town
Chennai - 600 003
3. The Revenue Divisional Officer
Chengalpattu Taluk
4. The Zonal Tahsildar
Chengalpattu Taluk

WEB COPY

R. SUBBIAH, J
and
KRISHNAN RAMASAMY, J

rsh



WEB COPY

WP No. 10590 of 2019

27-04-2019