

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2019

CORAM:

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

W.P.No.9929 of 2019

N.Sivan

.. Petitioner

Vs.

The Revenue Divisional Officer,
Dharmapuri,
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 records relating to the order of rejection passed in Pa.Mu.A4/7464/2018, dated 17.12.2018 on the file of the respondent, quash the same and direct the respondent to issue Community Certificate to the petitioner's children, viz., (1) S.Sushmitha (2) S.Poovarasam and (3) S.Vidya that they belong to Kurumans (ST) Community based upon the Community Certificate already issued to the petitioner's father's brother's son G.Kandasamy.

For petitioner : Mr.V.Elangovan

For respondent : 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 records relating to the order of rejection passed in Pa.Mu.A4/7464/2018, dated 17.12.2018 on the file of the respondent, quash the same and direct the respondent to issue Community Certificate to the petitioner's children, viz., (1) S.Sushmitha (2) S.Poovarasam and (3) S.Vidya that they belong to Kurumans (ST) Community based upon the Community Certificate already issued to the petitioner's father's brother's son G.Kandasamy.

2. It is the case of the petitioner that he belongs to Kurumans Community, which is classified as Schedule Tribe community. The petitioner did not obtain any Community Certificate, as it was not required at that time and his avocation is Agriculture. The petitioner's father's own

brother's son G.Kandasamy obtained Community Certificate from the respondent on 28.06.2018 stating that he belongs to Kurumans (ST) Community. In the school records of the petitioner's children, their community is entered as Kurumans (ST) Community. Since the school authority is insisting the petitioner to produce the Community Certificate of his children, the petitioner preferred an application to the respondent on 04.01.2016 requesting to issue Community Certificate to his children to the effect that they belong to Kurumans (ST) Community. Along with the said application, the petitioner has enclosed the following documents:

- (i) School Transfer Certificate of S.Sushmitha;
- (ii) School Transfer Certificates of S.Poovarasan;
- (iii) School Transfer Certificate of S.Vidya;
- (iv) Family Card, and
- (v) Community Certificate of the petitioner's close relative G.Kandasamy who is the petitioner's father's own brother's son.

3. However, no order was passed by the respondent, and in pursuant thereto, the petitioner sent a reminder request to the respondent on 30.08.2018. It is the further case of the petitioner that his close relatives are having valid Community Certificate and hence, the petitioner's children may also be issued with necessary Community Certificate to the effect that they belong to Kurumans (ST) Community. As there was no response, the petitioner preferred W.P.No.28681 of 2018 before this Court, on which, on 30.10.2018, this Court directed the respondent to dispose of the application. But, without application of mind, the respondent rejected the said application on 17.12.2018 on the ground that the petitioner belongs to Kurumbar Community. This Court, in number of cases, held that there is no such community called Kurumbar and the Secretary to Government 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 indicating as Kurumbar Community and not to rely upon the name as Kurumbar in any of the proceedings. Thus, challenging the said order dated 17.12.2018, the petitioner has filed the present Writ Petition for the abovesaid relief.

4. The respondent has filed counter affidavit stating inter-alia that the school admission Register of Panchayat Union Elementary School of Pallayampudur Village for the year 1989 and 1992 have been verified and it was found that the petitioner was admitted in the School on 29.09.1989 under Serial No.2796 and his community status was recorded as Hindu Kurumbar. Thereafter, the petitioner's own brother, namely Ganesan was admitted in the same Elementary School on 03.09.1992 under Serial No.3065, wherein, his Community status was also recorded as Kurumbar. During earlier years, the community such as Kurumba/Kurumbar/Kurukba/Kurumban Communities were in existence.

Now they are all clubbed as Kurumba (or) Kurumba Gounder. Hence, the petitioner's family does not belong to Kurumans under S.T. category.

5. It is further stated in the counter affidavit that the writ petitioner's appeal petition is pending before the District Collector, Dharmapuri and is in process by the Appellate Authority in Reference No.443/2018 (L3) of the Collectorate, Dharmapuri.

6. Be that as it may. As against the impugned order passed by the respondent-RDO, an appeal lies before the concerned District Collector. Accordingly, the petitioner has also preferred appeal as is evident from the abovesaid counter. Resultantly, the District Collector concerned shall consider the appeal of the petitioner. The petitioner is also at liberty to produce the Genealogy (Family Tree)/Relationship Certificate of the petitioner and the District Collector shall examine the relationship between the petitioner and his relatives and after affording an opportunity of hearing to the petitioner, the District Collector shall pass appropriate orders on the said appeal, on merits and in accordance with law, within a period of six weeks from the date of production of such relevant documents and also considering the enclosures made in the said appeal. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner and it is for the District Collector/Appellate Authority to analyse the same before passing orders on the said appeal. The petitioner is also at liberty to enclose all the relevant documents in proof of such Community Certificate including the said Genealogy Tree.

7. With the above observations and directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District.

+1cc to Mr.S.Doraisami, Advocate SR.No.39456

W.P.No.9929 of 2019

LN (CO)
GMY (20/05/2019)