

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 30.04.2019
CORAM:
THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY
W.P.No.11543 of 2019

L.Athipathi

.. Petitioner

Vs.

1. The Collector,
Dharmapuri,
Dharmapuri District.

2. The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to issue Community Certificate to the petitioner's children (i) A.Alaikadal (ii) A.Adalarasu and (iii) A.Elaiyanila that they belong to "Kurumans (ST) Community" based upon the Community Certificate already issued to the petitioner, his father, his brother and sister and other family members.

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 Mandamus to direct the respondents to issue Community Certificate to the petitioner's children (i) A.Alaikadal (ii) A.Adalarasu and (iii) A.Elaiyanila that they belong to "Kurumans (ST) Community" based upon the Community Certificate already issued to the petitioner, his father, his brother and sister and other family members.

2. It is the case of the petitioner that he belongs to Kurumans Community, which is classified as a Scheduled Tribe

Community. He obtained a Community Certificate from the second respondent on 10.07.1997 that he belongs to Kurumans (ST) Community. His father Lakshmanan also obtained a Community Certificate to the effect that he belongs to Kurumans (ST) Community. The petitioner's own brother L.Pushparaj obtained Community Certificate from the second respondent. The petitioner's brother L.Pushparaj preferred an application to the second respondent requesting to issue Community Certificate to his children. The above claim was rejected by the second respondent on 09.02.2015. Against the said order of rejection, the petitioner's brother filed a Writ Petition in W.P.No.9512 of 2015. This Writ Petition was disposed of on 13.07.2015 setting aside the said order dated 09.02.2015 and the respondent therein was directed to issue necessary Community Certificate forthwith, preferably within a period of one week from the date of receipt of a copy of the order. Accordingly, the second respondent issued the Community Certificate to the petitioner's brother's sons on 04.08.2015.

3. It is further stated that, similarly, the petitioner's own sister also filed a Writ Petition in W.P.No.16272 of 2017 against the order of rejection passed by the second respondent on 30.12.2016. This Court passed an order on 14.03.2018 directing her to file an appeal to the first respondent, who after enquiry, allowed the appeal and directed the second respondent to issue Community Certificate to the petitioner's sister and her sons within a period of three days based upon the Community Certificate of the petitioner herein. On 16.03.2018, the second respondent issued Community Certificate to the petitioner's sister and her sons, based on the petitioner's Community Certificate issued by the second respondent.

4. It is further stated by the petitioner that his another sister L.Logaminnala filed W.P.No.9696 of 2018, which was disposed of by this Court on 18.09.2018 directing the respondent/RDO, Dharmapurai to issue Kurumans (ST) Community Certificate to the petitioner therein within a period of six weeks from the date of receipt of a copy of the order.

5. The petitioner has preferred an application to the second respondent requesting to issue Community Certificate to his children stating that they belong to Kurumans (ST) Community by enclosing the necessary documents and the said application was forwarded to the Tahsildar, Pennagaram on 30.06.2017 to conduct an enquiry and submit a report. Since no order was passed, the petitioner earlier filed W.P.No.21191 of 2017 and this Court disposed of the same on 09.08.2017 directing the respondent therein to dispose of the application within a period of four weeks. However, the second respondent, without applying his mind, passed an order on 06.03.2018 referring all the

Certificates to the State Level Scrutiny Committee and only after receipt of the report from the Committee, the Certificate will be issued to the petitioner's children. Hence, he filed W.P.No.14125 of 2018 and on 18.07.2018, this Court directed the petitioner to approach the appellate authority, i.e. first respondent. Accordingly, the petitioner preferred an appeal to the first respondent on 23.08.2018 enclosing all the necessary documents including the Community Certificate of his relatives. It is stated by the petitioner that his relatives' Community Certificates are valid and not cancelled by any authority. In this regard, the petitioner relies on a decision of the Supreme Court reported in 2005 (12) SCC 248 (State of Bihar Vs. Sumit Anand), in which it is held that once the parents are having a valid Community Certificate, the applicant's children are entitled to obtain a Community Certificate that they belong to such Community.

6. Since the Community Certificate is not issued to the petitioner's children yet, he has come forward with the present Writ Petition for the relief stated supra.

7. When the Writ Petition is taken up for consideration, learned counsel for the petitioner made submissions adverting to the averments made in the affidavit filed in support of the Writ Petition.

8. Heard the learned Special Government Pleader appearing for the respondents on the above aspects.

9. When the petitioner's Community Certificate and of his father, brother and sisters and other relatives were not cancelled by the State Level Scrutiny Committee so far, there cannot be any impediment to issue Community Certificate to the petitioner's children.

10. Accordingly, the second respondent-RDO is directed to issue Community Certificates to the petitioner's children named above, within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the second respondent-RDO is directed to refer the said Community Certificate of the petitioner, petitioner's father, petitioner's brother, petitioner's sisters and also his close relatives and also of his children to be issued as directed above, to the State Level Scrutiny Committee for verification of the genuineness of the same. The State Level Scrutiny Committee shall verify the genuineness of all the above said Community Certificates of the petitioner, petitioner's father, petitioner's brother, petitioner's sisters and also of his close relatives, as also his children to be issued as directed above, and pass appropriate orders on or before 31.10.2019.

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

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Collector,
Dharmapuri,
Dharmapuri District.
2. The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District.
3. The Section Officer,
Tamil Nadu State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Secretariat,
Chennai-600 009.

+1 cc to Mr.S.Doraisamy, Advocate Sr.No.42434

+1 cc to Government Pleader, Sr.No. 43315

ev(co)
mp(21/05/2019)

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W.P.No.11543 of 2019

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