

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2019

CORAM

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

Writ Petition No.12310 of 2019

A.Muniyappa
S/o.Late Anumaiah

... Petitioner

Vs

1.State Level Caste Scrutiny Committee
represented by its
Chairman and Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat,
Chennai - 600009.

2.The Sub-Collector,
Hosur,
Krishnagiri District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Mandamus directing first respondent to declare the petitioner as belong to Kurichchan (ST) Community and also direct the second respondent to issue Community Certificate in favour of the petitioner's sons, daughter and grand daughter (1)M.Sudhakar (2) M.Karunakar (3) M.Sarvamangalam and (4) S.Shruthilayaa that they belong to Kurichchan (ST) Community based upon the report of the Vigilance cell dated 13.12.2017 and Anthropologist dated 20.10.2017.

For Petitioner : Mr.S.Doraiswamy

For Respondents: Mr.V.Jayaprakash Narayanan
Government Pleader (In-charge)

O R D E R

[Order was delivered by R.SUBBIAH, J]

Petitioner seeks issuance of a Writ of Mandamus directing first respondent to declare the petitioner as belong to Kurichchan (ST) Community and also direct the second respondent to issue Community Certificate in favour of petitioner's sons, daughter and grand daughter (1) M.Sudhakar (2)M.Karunakar (3) M.Sarvamangalam and (4) S.Shruthilayaa that they belong to Kurichchan (ST) Community based upon the reports of the Vigilance cell dated 13.12.2017 and Anthropologist dated 20.10.2017.

2. Heard learned counsel for petitioner and learned Government Pleader (In Charge) for respondents.

3. Petitioner submitted an application dated 15.12.2007 to second respondent seeking issuance of Community Certificates to his sons, daughter and grand daughter. Along with the said application, petitioner enclosed 22 documents in support of his claim. Petitioner sent a reminder on 10.01.2008. Since no order was passed, petitioner filed W.P.No.14468 of 2009 before this Court seeking a direction for issuance of Community Certificate and this Court, under orders dated 27.07.2009, directed the second respondent to consider and pass orders on the petitioner's application after conducting due enquiry and taking into consideration the documents produced by him in support of his claim. Since the order of this Court has not been complied, petitioner filed Cont.P.No.565 of 2012. Pending the Contempt Petition, second respondent, under orders dated 09.04.2012, rejected the petitioner's application. Against such order, petitioner filed W.P.No.12135 of 2012 and this Court, under orders dated 06.12.2012, disposed of the same observing thus:

'2. As far as the orders passed rejecting the claim of issuance of community certificate is concerned, since the issue as to whether the petitioner belong to particular schedule tribe or not requires factual verification with the assistance of Anthropologist, the proper course would be to direct the petitioner to approach State Level Scrutiny Committee. This Court by order dated 05.12.2012 in Writ Petition Nos.21697, 23911, 23912, 21938 and 22457 of 2011 in the case of A.Raja v. The Revenue Divisional Officer, Dharmapuri and others, passed an order directing the petitioners therein to approach the State Level Scrutiny Committee for the purpose of considering the claim of the petitioners therein that they belong to Kurumans Community and that the services of the Anthropologist be taken for the purpose of verifying the claim of the petitioner.

3. As pointed out therein, since the issue herein needs investigation into the facts with the assistance of Anthropologist, the proper course herein would be to direct the petitioner to approach the State Level Scrutiny Committee within a period of four weeks from today. On such filing of an appeal, the Appellate Authority shall conduct necessary enquiry through Anthropologist and supply copy of the report of the Anthropologist to the petitioner herein and pass orders on merits on the claim of the petitioner.'

Thereafter, petitioner preferred an appeal before the first respondent Committee. Since no action was taken, petitioner filed W.P.No.17283 of 2014 and this Court, under orders dated 02.07.2014, directed first respondent to dispose of the appeal within a period of eight weeks. Pursuant thereto, first respondent referred the matter to the Vigilance Cell, Krishnagiri, as well as to the Anthropologist on 20.03.2017. The Vigilance Cell has given a positive report dated 13.12.2017 to the first respondent and directed the first respondent to pass favourable orders as per the guidelines in (i) Kumari Madhuri Patil v. Additional Commissioner, Tribal Development [1994 (6) SCC 241] and (ii) G.Venkitasamy and another v. The Chairman, State Level Scrutiny Committee [2016-1-LW-289]. The Anthropologist has also given a report stating that the petitioner's family belongs to Kurichchan (ST) Community. However, till date, no order has been passed. Hence, the present Writ Petition.

4. It is the submission of learned counsel for petitioner that once the Vigilance Cell has given a positive report, there cannot be any impediment for the first respondent to issue Community Certificate.

5. Though the petitioner seeks a positive direction, this Court is not inclined to issue such a direction. However, this Court directs the first respondent to pass an order based on the reports of the Vigilance cell dated 13.12.2017 and Anthropologist dated 20.10.2017, within a period of four weeks from the date of receipt of this order.

The Writ Petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gm

To

1.The Chairman and Secretary to Government,
State Level Caste Scrutiny Committee
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai - 600009.

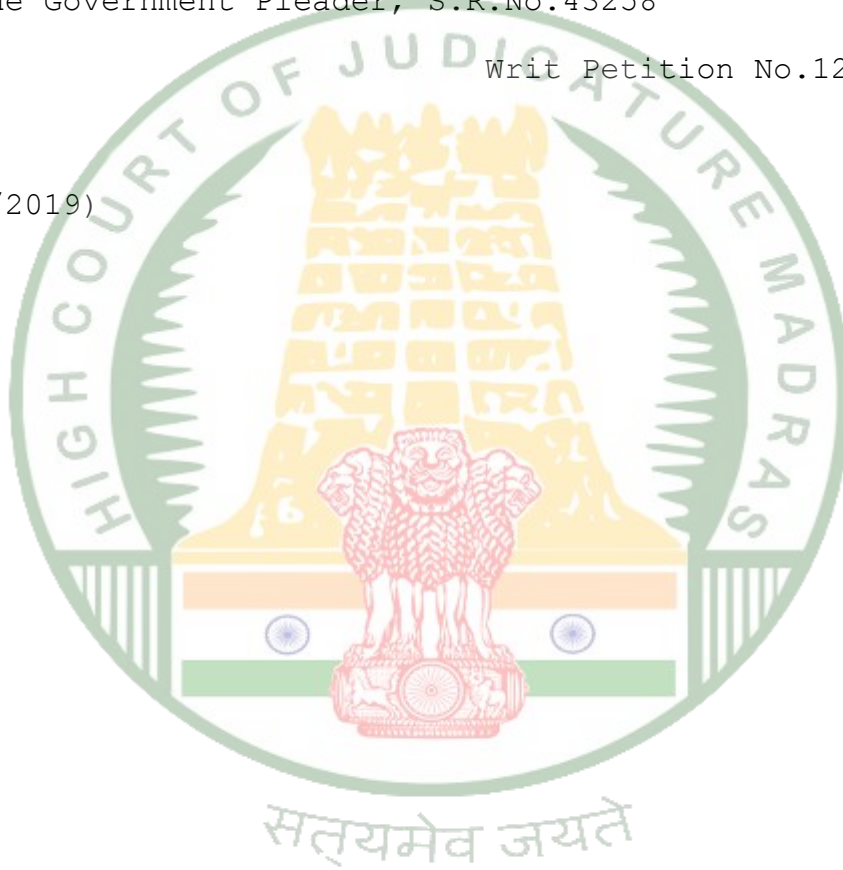
2.The Sub-Collector,
Hosur, Krishnagiri District.

+1cc to Mr.S.Doraisamy, Advocate, S.R.No.41767
+1cc to the Government Pleader, S.R.No.43258

Writ Petition No.12310 of 2019

SR(CO)

RRS (03/05/2019)



WEB COPY