

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 14.08.2019

Orders Pronounced on : 29.08.2019

CORAM:

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

W.P.No.17448 of 2019  
and  
W.M.P.No.16933 of 2019

Rilvan

.. Petitioner

Vs.

- 1.The District Collector,  
Kanchipuram District,  
Kanchipuram.
- 2.The District Revenue Officer,  
Collector Office,  
Kanchipuram District.
- 3.The Revenue Divisional Officer,  
Sub-Collector Office,  
Chengalpattu,  
Kanchipuram District.
- 4.The Tahsildar,  
Thirukkazhukundram Tahsildar Office,  
Thirukkazhukundram,  
Kancheepuram District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the entire records relating to the impugned order in Na.Ka.4736/2019/E, dated 01.03.2019 passed by the third respondent, to quash the same and consequently direct the fourth respondent to issue Community Certificate to the petitioner and his wife and his children as BC (Backward Class) Muslim Labbai.

For petitioner :Mr.A.Venkatesan

For respondents:Mr.S.R.Rajagopal,

Addl. Advocate General

assisted by Mr.V.Shanmuga Sundar, Spl.G.P.

## ORDER

R.SUBBIAH, J

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the entire records relating to the impugned order in Na.Ka.4736/2019/E, dated 01.03.2019 passed by the third respondent, quash the same and consequently direct the fourth respondent to issue Community Certificate to the petitioner, his wife and his children as BC (Backward Class) Muslim Labbai.

2. It is the case of the petitioner that he is Hindu by birth and originally belonged to Backward Class (BC) 24 Manai Telugu Chettiyar Community. His marriage was solemnised with his wife Ramjiya whose original name is Ramya, who belongs to Scheduled Caste (SC) Hindu Adi Dravida Community and due to their wedlock, two children were born to them, namely (i) Harshat (previous name Kavin Raji), aged about 13 years and (ii) Harshidha, aged about four years. On 15.10.2012, out of his own volition, the petitioner got converted to Muslim Labbai religion from the Hindu religion. After conversion, he was blessed with the second child, namely Harshidha. Subsequently, on 23.03.2016, he had published his religious conversion in the Official Gazette. On 28.03.2018, the petitioner applied for issuance of the Community Certificate to the fourth respondent and he sought the respondents to issue BC Community Certificate as per G.O.Ms.No.85, issued by the Backward Class, Most Backward Class and Minorities Welfare Department, dated 29.07.2008.

3. Though the petitioner had applied to the fourth respondent-Tahsildar to issue Community Certificate as BC Community after conversion of his religion, the same was denied stating that they could issue only as converted Muslim and they declined to issue BC Certificate, by proceedings dated 05/2018 passed by the fourth respondent-Tahsildar in OMU.1379/2018/A5. Thereafter, on 25.06.2018, the petitioner prepared an appeal to the respondents 1 and 3 and sought them to quash the said order dated 05/2018 passed by the fourth respondent. Thereafter, the petitioner had challenged the said order passed by the fourth respondent, in W.P.No.3038 of 2018 and on 26.11.2018, this Court directed the third respondent therein to pass appropriate orders on the petitioner's representation, dated 25.06.2018 within a period of 12 weeks from the date of receipt of a copy of the order, after affording an opportunity of hearing to the petitioner. Thereafter, the petitioner sent a copy of order to the third respondent for compliance of the above order of this Court.

4. It is further stated by the petitioner that the third

respondent passed the impugned order dated 01.03.2019 in Na.Ka.4736/2019/E, rejecting the representation of the petitioner and in the impugned order, the third respondent stated that if the person got converted from Scheduled Caste and Backward Caste Community, there is no provision for providing Backward Caste Community Certificate.

5. It is the grievance of the petitioner that the respondents 1 to 3 had not considered the issue in proper perspective. The petitioner requires the Community Certificate for his children's school purpose. The petitioner quotes the recent order of the Madurai Bench of this Court in W.P.(MD). No.4209 of 2013, dated 09.04.2014 (MU.Aariffaa Vs. Secretary to Government and others), in which it is stated in paragraph 39 that, "It was the submission of the learned Amicus Curiae that if a person belonging to Hindu BC/MBC/SC community converts to anyone of the above seven sects of the Islam, as mentioned in the List III of G.O.Ms.No.85, the person could be treated as Backward Class". The above said seven sects of the Islam (Backward Class Muslims) as mentioned in the said order of the Madurai Bench of this Court based on the said G.O.Ms.No.85 are (i) Ansar, (ii) Dekkani Muslims, (iii) Dudekula, (iv) Labbais including Rowthar and Marakayar (whether their spoken language is Tamil or Urudhu); (v) Mapilla, (vi) Sheik and (vii) Syed. Since the petitioner got converted to Muslim Labbais, he claims that he is entitled to BC Community Certificate in the light of the above G.O. As the third respondent had rejected the petitioner's representation by way of the impugned order, the petitioner has come forward with the present Writ Petition for the relief stated supra.

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

7. The learned Additional Advocate General, assisted by the learned Special Government Pleader, by filing counter affidavit, submitted that the petitioner originally belongs to 24 Manai Telugu Chettiar classed as Backward Class and his wife belongs to Hindu Adi Dravidar Community. The petitioner, his wife along with two children, embraced Islam Religion on 15.10.2012, as per the letter given by Pudupattinam Muslim Zamath. The petitioner and his wife also notified their religious conversion in the Tamil Nadu Government Gazette. The petitioner has not exercised any option on 15.10.2012 when he converted to Muslim religion about the sub-sect he wanted to embrace in Muslim religion and also not in the Tamil Nadu Government Gazette later. The learned Additional Advocate General further submitted that the petitioner has not even produced any certificate from the Zamath about the sub-sect in Muslim religion which he embraced.

Further, though the petitioner relied on G.O.Ms.No.85, Backward Classes and Minorities Welfare Department, dated 29.07.2008 by stating that the Hindu BC community can convert to any one of the seven sects, contemplated in the list in which Labbai is one among them, in the absence of specific sub-sect during his conversion to Islam, he has to be treated as Muslim which comes under Forward Community. Further, the petitioner did not exercise specific option before the Zamath about the sub-sect and had he opted for a specific sub-section before the Zamath, the Zamath would have clearly indicated the sub-sect that he embraced at the time of conversion as Muslim.

8. The learned Additional Advocate General appearing for the respondents further submitted that even during the enquiry conducted by the Revenue Inspector, Nerumbur on his petition to the third respondent, dated 20.03.2018, he had simply stated that his family embraced Muslim religion during the year 2012 and that they changed their names as Muslim names and that they published their Muslim religion embracement in the Government Gazette. The petitioner did not whisper anything about the embracement of Labbai sub-sect in the aforesaid petition. In the absence of specific sub-sect on conversion into Islam from Hindu religion, more particularly, in the Zamath which would recommend the necessary endorsement for conversion with sub-sect, the Community Certificate cannot be issued to the petitioner. According to the certificate given by Pudupattinam Zamath, dated 15.10.2012, there is no mention about the sect "Labbai" anywhere. The subsequent Tamil Nadu Government Gazettes produced by the petitioner also did not indicate the sect "Labbai". If the petitioner claims to have embraced the aforesaid sub-sect, he ought to have exercised specific option about the sub-sect he wanted to embrace under "Islam" and it should also have been certified by the Zamath. Hence, he is not entitled to claim Muslim-Labbai Community Certificate. In this regard, the decision relied on by the petitioner in W.P.(MD).No.4209 of 2013, stated above, cannot be cited, as he has not exercised any such specific option while embracing Muslim religion.

9. Heard both sides and perused the materials available on record.

10. The writ petitioner got converted to Muslim religion on 15.10.2012 with sub-sect Labbai. Neither during his conversion to Islam on 15.10.2012, nor during the publication of his conversion in the Tamil Nadu Government Gazette, he has mentioned anything regarding the sub-sect Labbai. Even in the Certificate given by Pudupattinam Zamath, there is no mention of the sub-sect Labbai. Hence, the petitioner will not be entitled to Backward Class Community Certificate merely on conversion.

11. Further, only if there is an endorsement by the Jamath

indicating the Backward Class as Labbai, the Community Certificate can be issued by mentioning the said sub-sect. In the absence of such endorsement by the Jamath, the respondents cannot issue Community Certificate as sought for by the petitioner. Though the petitioner relies on G.O.Ms.No.85, Backward Classes and Minorities Welfare Department, dated 29.07.2008 stating that Hindu BC Community can convert to any of the seven sects of Islam as mentioned therein in the list, in which Labbai is one among them, in the absence of specific sub-sect during the conversion to Islam, he has to be treated as Muslim which comes under the Forward Community. Even during the enquiry conducted by the Revenue Inspector, Nerumbur on his petition to the third respondent, dated 20.03.2018, the petitioner simply stated that his family embraced Muslim religion during the year 2012 and that they changed their names as Muslim names, even though they published their names in the Government Gazettes.

12. Hence, for the above reasons, now this Court cannot give such a direction prayed for by the petitioner in this Writ Petition to issue BC Community Certificate to his family indicating the sub-sect as Labbai.

13. Though either side relied on various decisions of Courts in support of their stand, the same are distinguishable on facts, as in the present case, initially, at the time of conversion into Islam, the petitioner did not particularly mention about the sub-sect "Labbai", which dis-entitles him from claiming the relief of issuance of Community Certificate to the petitioner and his family, more particularly, in the Jamath, he did not mention his sub-sect while conversion to Islam.

14. In view of the foregoing reasonings, the Writ Petition is dismissed. No costs. Consequently, W.M.P. is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,  
Kanchipuram District,  
Kanchipuram.

2.The District Revenue Officer,  
Collector Office,  
Kanchipuram District.

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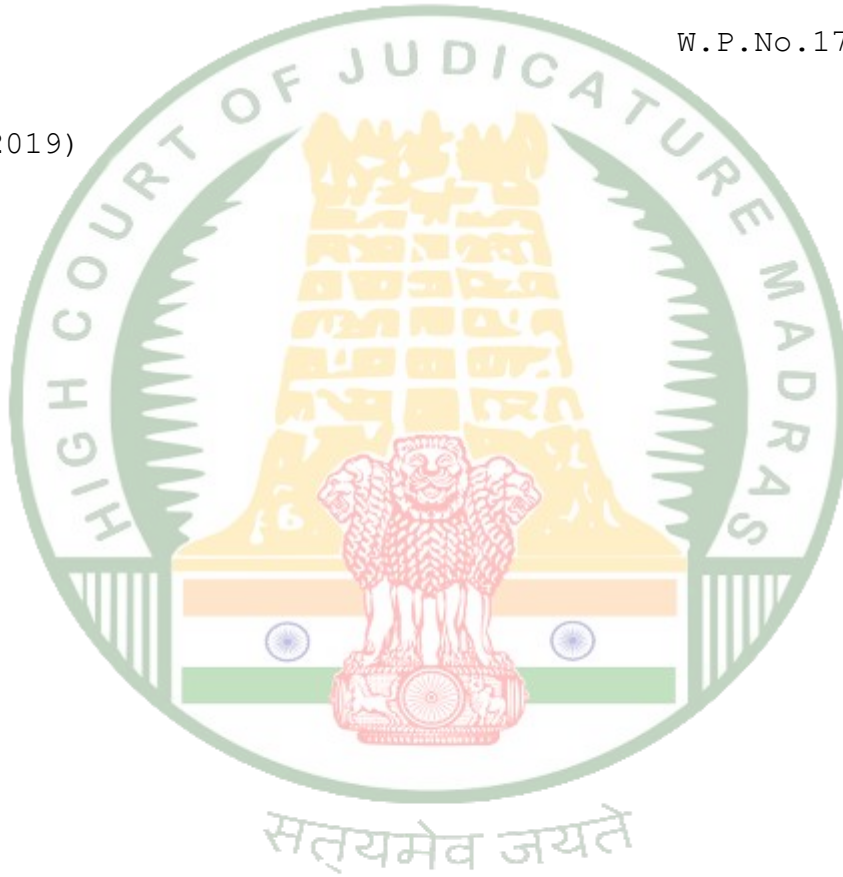
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Thirukkazhukundram Tahsildar Office,  
Thirukkazhukundram,  
Kancheepuram District.

+lcc to Mr.A.Venkatesan, Advocate SR.74864

W.P.No.17448 of 2019

LN(CO)  
CB(03/10/2019)



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