

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 27.06.2019

Orders Pronounced on : 08.07.2019

Coram:

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

W.P.No.17116 of 2019
and
W.M.P.No.16674 of 2019

T.Jayasudha ... Petitioner

Vs.

1. The Revenue Divisional Officer,
Harur, Dharmapuri District.
2. The Secretary,
Selection Committee,
Directorate of Medical Education,
Kilpauk, Chennai-600 010. ... 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 records relating to the impugned proceedings issued by the respondent in Na.Ka.3547/2018/A3, dated 19.01.2019 and to quash the same and consequently direct the first respondent to issue S.T.Kurumans Community Certificate in favour of the petitioner, viz., T.Jayasudha and the petitioner's minor children viz., V.Pavithra and V.Avandhika, based on the S.T. Kurumans Community Certificate issued in favour of the petitioner's husband Mr.S.Vajjiram (father of the minor children) and other blood relatives.

For petitioner : Mr.G.Sankaran
For respondents : Mr.V.Shanmuga Sundar, Spl.G.P.

ORDER

R.SUBBIAH, J

The petitioner has filed the present Writ Petition praying for issuance of a Writ of Certiorarified Mandamus

to call for the records relating to the impugned proceedings issued by the respondent in Na.Ka.3547/2018/A3, dated 19.01.2019 and to quash the same and consequently direct the first respondent to issue S.T.Kurumans Community Certificate in favour of the petitioner, viz., T.Jayasudha and the petitioner's minor children viz., V.Pavithra and V.Avandhika, based on the S.T. Kurumans Community Certificate issued in favour of the petitioner's husband Mr.S.Vajjiram (father of the minor children) and other blood relatives.

2. It is the case of the petitioner that she completed X Standard and got married to Thiru.S.Vajjiram and is having two female children, viz., V.Pavithra and V.Avandhika, studying XII Standard and X Standard respectively. For the purpose of further studies after school education and for employment, the Community Certificate is required for herself and her children. The petitioner's husband S.Vajjiram belongs to Hindu Kurumans Scheduled Tribe Community and he was issued with Hindu Kurumans Scheduled Tribe Community Certificate, dated 28.12.1995 by the Revenue Divisional Officer, Dharmapuri, after due enquiry and verification. Apart from that, the petitioner's relatives have also already been issued with ST Kurumans Community Certificate. The petitioner's sister B.Malathi and brother B.Manoj have already been issued with ST Kurumans Community Certificate. Further, the petitioner's paternal uncle (brother of the petitioner's father) B.Kalaiarasn and B.Tamilmani as well as their children, have already been issued with ST Kurumans Community Certificate. The State Level Scrutiny Committee confirmed the genuineness of Hindu ST Kurumans Community Certificate issued in favour of the petitioner's paternal uncle Thiru.B.Tamilmani, son of Beeran.

3. It is further stated by the petitioner that she submitted application to the first respondent seeking issue of Community Certificate in her favour and in favour of her children V.Pavithra and V.Avandhika on 20.02.2018. Since no orders were passed, the petitioner filed a Writ Petition before this Court in W.P.No.18397 of 2018, in which this Court passed orders on 19.07.2018 directing the first respondent herein (respondent therein) to consider her application and to pass appropriate orders after personal hearing within a time frame. While so, the first respondent issued proceedings dated 12.09.2018 rejecting her claim for issuance of ST Kurumans Community Certificate in her favour and in favour of her children by referring to a report of Director of Tribal Welfare (in-charge) of the year 2015 with reference to culture and habits of people belonging to Kurumans Community, without considering the fact that her husband/father of children, as well as the

other blood relatives have already been issued with Community Certificate and even the State Level Scrutiny Committee confirmed the ST Community Certificate issued in favour of her paternal uncle B.Tamiln Mani.

4. Hence, again the petitioner filed W.P.No.27719 of 2018 before this Court challenging the said proceedings of the first respondent, dated 12.09.2018. This Court passed final orders in W.P.No.27719 of 2018 on 01.11.2018 by taking note of the relationship between the petitioner and her blood relatives, who were granted S.T. Kurumans Community Certificate, which was not verified by the first respondent and accordingly, this Court quashed the order with a direction to the first respondent to consider the application of the petitioner afresh and to pass orders after examining the relationship between the petitioner and her relatives by affording an opportunity of hearing to her and on being satisfied with the relationship, the first respondent-RDO was directed to pass orders within a period of eight weeks from the date of receipt of a copy of the order and ultimately, the matter was remitted back to the first respondent.

5. It is stated that pursuant to the said order of this Court, the petitioner was called upon by the first respondent for personal hearing on 22.11.2018, on which date, the petitioner appeared before the first respondent and produced the Community Certificate issued in favour of her husband Mr.S.Vajjiram by stating that the father of the children had already been issued with the Community Certificate as early as in the year 1985 itself. Further, the petitioner produced the Community Certificate already issued in favour of the petitioner's brother, sister, paternal uncle Mr.Tamil Mani as well as the order passed by the State Level Scrutiny Committee confirming the status of community of the said Mr.Tamil Man. It is further stated that the first respondent issued proceedings dated 19.01.2019 rejecting the claim of the petitioner by referring to the same reasons already stated in the earlier order dated 12.09.2018 and also stated that the petitioner's relative Mr.V.Tamil Mani obtained Community Certificate by furnishing false information and hence, it is liable to be cancelled, inspite of the fact that the genuineness of the Community Certificate issued to Mr.V.Tamil Mani had already been confirmed by the State Level Scrutiny Committee. It is stated that thereafter, the petitioner filed Contempt Petition No.760 of 2019 in which, this Court, by order dated 17.06.2019, while closing the Contempt Petition, granted liberty to the petitioner to challenge the said order passed by the RDO, dated 19.01.2019, when it is pointed out that the father of the children had already been issued with the Community

Certificate.

6. When the matter is taken up for consideration, the learned counsel for the petitioner made detailed submissions adverting to the averments made in the Writ Petition and stated that the petitioner's paternal uncle Mr.Tamil Mani was already issued with Community Certificate, genuineness of which was already confirmed by the State Level Scrutiny Committee. Though this Court has given a specific direction to consider the petitioner's application for issuance of the Community Certificate on the basis of the Community Certificate already issued to the said Mr.Tamil Mani, the first respondent has rejected the application by assigning a reason that the said Tamil Mani had obtained the Community Certificate by furnishing false information, inspite of the fact that the said Tamil Mani's Community Certificate had been verified and stated to be genuine and confirmed by the State Level Scrutiny Committee. Thus, the learned counsel for the petitioner sought to quash the impugned order and consequently to direct the first respondent to issue S.T. Kurumans Community Certificate in favour of the petitioner and her minor children, based on the S.T. Kurumans Community Certificate issued in favour of the petitioner's husband Mr.S.Vajjiram who is the father of the minor children and other blood relatives.

7. Countering the above submissions, by filing counter affidavit of the first respondent, the learned Special Government Pleader appearing for the respondents submitted that on enquiry, the respondents came to know that the said Tamil Mani had obtained the Community Certificate by furnishing false information and that there is a specific direction of this Court in W.P.No.27719 of 2019, dated 01.11.2018 to verify the relationship between the children and the persons in the family, who had already been issued with the Community Certificates, and the petitioner's paternal uncle's Community Certificate, which was duly confirmed by the State Level Scrutiny Committee and in obedience of this direction, necessary verifications have been undertaken in the subject matter on the basis of the Birth Register(s) and School Register(s) and it was found that those Certificates are not genuine and particularly, the Certificate of the said Tamil Mani is not genuine. Thus, if the petitioner is aggrieved by the impugned order, the only remedy for her is to file appeal before the District Collector concerned as against the impugned order, and hence, the learned Special Government Pleader prayed for dismissal of the Writ Petition.

8. Keeping in mind the above submissions made by the learned counsel appearing for the parties, we have carefully perused the materials available on record.

9. It is the main contention of the learned counsel for the petitioner that already this Court had directed the respondents to consider the issuance of Community Certificate by conducting enquiry by taking into account the Community Certificates already issued to the petitioner's blood relatives, particularly the Community Certificate issued to the petitioner's paternal uncle, namely, Tamil Mani, whose Certificate had already been confirmed by the State Level Scrutiny Committee. In spite of the said direction, the first respondent-RDO had rejected the claim of the petitioner by passing the impugned order, which is liable to be quashed with consequential direction as prayed for in this Writ Petition.

10. Per contra, it is the submission of the learned Special Government Pleader appearing for the respondents that the Community Certificate issued to the petitioner's paternal uncle, was confirmed by the State Level Scrutiny Committee, but on verification, it was found that the same was not genuine, as the said paternal uncle Tamil Mani had furnished false information and thereby he obtained bogus Community Certificate.

11. Be that as it may. This Court is not conducting any roving enquiry in this Writ Petition. Since it has been specifically stated that the said Tamil Mani had obtained his Community Certificate by giving false information, the only remedy available to the petitioner is to file appeal before the District Collector concerned as against the impugned order and she cannot agitate her rights by way of filing this Writ Petition. Moreover, in the order dated 01.11.2018 in W.P.No.27719 of 2018, while issuing direction to examine the relationship between the petitioner and the said Tamil Mani, this Court made it clear that the order had been passed without expressing any opinion on the merits of the claim made by the petitioner.

12. In such circumstances, we do not find any valid reason to quash the impugned order. However, the petitioner is at liberty to file appeal as against the impugned order, by enclosing necessary documents before the appellate authority/District Collector. The Writ Petition is accordingly dismissed. No costs. Consequently, W.M.P. is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

CS

To

1. The Revenue Divisional Officer,
Harur, Dharmapuri District.

2. The Secretary,
Selection Committee,
Directorate of Medical Education,
Kilpauk,
Chennai-600 010.

+1 cc to Government Pleader Sr.No. 57383

W.P.No.17116 of 2019

A.SK(14/08/2019)



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