



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2019

CORAM:

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

W.P.No.19925 of 2019

Tmt.Manimehalai .. Petitioner
Vs.

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

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondent to issue Community Certificate to the petitioner that she belongs to Kurumans (ST) Community based upon the verification report of the State Level Scrutiny Committee in Proceedings No.21287/CVIII/2013, dated 24.03.2014 in respect of the petitioner's close blood relative S.Theerthagiri.

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

ORDER

(The Order of the Court was made by R.Subbiah, J)

The petitioner has filed the present Writ Petition praying for issuance of a Writ of Mandamus to direct the respondent to issue Community Certificate to the petitioner that she belongs to Kurumans (ST) Community based upon the verification report of the State Level Scrutiny Committee in Proceedings No.21287/CVIII/2013, dated 24.03.2014 in respect of the petitioner's close blood relative S.Theerthagiri.

2. The case of the petitioner as culled out from the affidavit filed in support of the Writ Petition, is as follows:

(a) The petitioner belongs to Kurumans Community, which is classified as a Scheduled Tribe Community. Since the petitioner's parents are illiterates, they did not obtain any Community Certificate. As the Community Certificate is required for the petitioner for higher studies and entering into a Government Service, she preferred an application to the



respondent on 31.08.2009 for issuance of Community Certificate stating that she belongs to Kurumans Community (ST). The respondent, without notice and enquiry, rejected the said application by order dated 04.05.2010 in Na.Ka.No.3122/2010/A3 stating that the petitioner does not belong to Kurumans Community and that she belongs only to Kurumbar Community.

(b) Hence, challenging the said rejection order, the petitioner filed W.P.No.19467 of 2010, in which, a Division Bench of this Court set aside the above rejection order dated 04.05.2010, including the other petitioners therein in W.P.Nos.19465 and 19466 of 2010, observing as follows in the common order dated 29.10.2010 passed in all the above Writ Petitions:

"4. In our opinion, as it is not in dispute that 'Kurumbar' community is not one of the communities notified by the Government, for the purpose of identifying the status of an individual, that community cannot be taken into consideration. If that be so, the finding of the respondent that the petitioners belong to 'Kurumbar' community cannot be sustained and as a necessary corollary, the same cannot be the reason for rejecting the request of the petitioners for issuance of Kurumans community certificate.

5. In view of the above, we are inclined to accept the submission of the learned counsel for the petitioners. Accordingly, the impugned orders are set aside and the matters are now remitted to the Revenue Divisional Officer, Harur, Dharmapuri District, for fresh consideration of the application of the petitioners. The petitioners shall file an affidavit of their parents/guardians duly sworn to and attested by a competent gazetted officer or non-gazetted officer with particulars of caste and sub castes, tribe, tribal community, parts or groups of tribes or tribal communities, the place from which they originally hail from and other particulars as may be prescribed by the concerned Directorate. Such an affidavit shall be filed by the petitioners together with any other further materials that may be available with the petitioners within a period of thirty days from the date of receipt of a copy of the order. On receipt of the same, the Revenue Divisional Officer,



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Harur, Dharmapuri District, shall consider the application of the petitioners independently and without reference to the earlier finding that the petitioners belong to 'Kurumbar' community and pass necessary orders on that application in a period of two months therefrom.

6. With the above direction, the writ petitions are allowed. No costs."

(c) Accordingly, on 25.11.2010, the petitioner communicated the sworn in affidavit along with 22 documents including the Community Certificate of her blood relatives and the report of the Anthropologist with respect to her village. Thereafter, on 26.11.2010, the respondent wrote to the petitioner that the petitioner's affidavit was not attested by the officer as directed by this Court. Hence, on 20.12.2010, the petitioner sent her affidavit which was attested by an officer as required by the respondent.

(d) On receipt of the above affidavit, the respondent, by letter dated 29.01.2011 called upon the petitioner and her father and also the Advocate who prepared the sworn-in affidavit. The petitioner and her husband appeared for the enquiry on 15.02.2011. However, the respondent recorded the petitioner's statement alone and closed the enquiry. Thereafter on the same day, i.e. on 15.02.2011, again the respondent passed an order rejecting the petitioner's application stating that she is not entitled for the Certificate as required.

(e) As against the above said order of rejection, the petitioner filed a Writ Petition in W.P.No.5843 of 2011, in which, a Division Bench of this Court passed orders on 20.04.2011 observing as follows alongwith connected Writ Petitions in W.P.Nos.5836 to 5842 of 2011:

"4. We have gone through the impugned order. Even in the impugned order, the Revenue Divisional Officer has referred to some of the certificates of the relatives of the Petitioner showing that they belong to Kurumans scheduled tribe community. Except a reference stating that those certificates were considered, there is absolutely no reason as to why the Revenue Divisional Officer has ignored those certificates for the purpose of considering the claim of the petitioner. In the absence of any reason as to why those certificates cannot be taken into consideration, the impugned order suffers due to non-application of mind.

5. Hence, without expressing any opinion on the certificates produced by the petitioner, which have been referred to by the Revenue Divisional Officer in the impugned order, we set aside the impugned order



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and remit the entire matter once again for fresh consideration by the Revenue Divisional Officer, Harur, Dharmapuri District. We make it clear that as we are remitting the matter once again, the Revenue Divisional Officer has to independently apply his mind to each of the certificates produced by the petitioner and give his reason in the event he does not accept the said certificates. We also make it clear that in the event the Revenue Divisional Officer accepts those certificates, he shall favourably consider the request of the petitioner for issuance of a community certificate.

W.P.Nos.5836, 5837 and 5839 to 5843 of 2011:

6. These writ petitions have been filed almost on the similar allegations made by the Petitioner in W.P.No.5838 of 2011. For the said reason, we are not inclined to refer the factual aspects in detail in respect of individual petitioners. But the reason which we have given in W.P.No.5838 of 2011 to set aside the order of the Revenue Divisional Officer and the direction for fresh consideration would also be applicable to each of the petitioners in these writ petitions.

7. Accordingly, all the above writ petitions are allowed and the matters are remitted back to the Revenue Divisional Officer, Harur, Dharmapuri District, for fresh consideration keeping in mind the observation made above in respect of the petitioner in W.P.No.5838 of 2011. The Revenue Divisional Officer shall pass orders in a period of two months from the date of receipt of copy of the order from the Registry or production of the same by the petitioner."

(f) The abovesaid order of this Court was communicated by the petitioner on 16.05.2011 to the respondent. Thereafter, on 01.07.2011, the petitioner appeared for enquiry before the respondent, in which, the petitioner produced the Community Certificate of her relatives. Thereafter, on 14.09.2011, the respondent passed an order rejecting the petitioner's claim, by proceedings in Na.Ka.No.2557/2011/A1. Since the said direction of this Court in W.P.No.5843 of 2011 had not been complied with by the respondent, the petitioner filed Contempt Petition in Cont.P.No.83 of 2012, in which this Court ordered notice. Pending the said Contempt Petition, on the advise of the learned Special Government Pleader, the order of earlier rejection dated 14.09.2011 was withdrawn by the respondent and subsequently, the following documents submitted by the petitioner on 01.07.2011 in support of her claim, were perused and proceedings dated



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25.04.2012 were issued by the respondent/RDO, Harur:

- (i) The petitioner's SSLC and TC;
- (ii) Community Certificate of the petitioner's paternal uncle's son Thangaraj;
- (iii) Community Certificate of the petitioner's paternal uncle's son Devarajan;
- (iv) Community Certificate of the petitioner's uncle's son Vijayakumar;
- (v) Community Certificate of the petitioner's husband Krishnamoorthy; and
- (vi) Community Certificate of the petitioner's husband's brother Sathishkumar.

However, the respondent, on 25.04.2012, referred all the petitioner's close relatives' Community Certificates to the State Level Scrutiny Committee and further observed that only after receipt of the report from the said Committee, the Community Certificate will be issued to the petitioner.

(g) Thereafter, on 24.03.2014, the petitioner's close relative S.Theerthagiri's Community Certificate was verified by the State Level Scrutiny Committee in Proceedings No.21287/CVIII/2013, found that he belongs to Kurumans (ST) Community and that the Community Certificate obtained by him dated 12.02.1996 issued by the respondent is genuine. Based on the said proceedings and findings of the said Committee, the petitioner preferred an application to the respondent on 28.07.2018 requesting the respondent to issue Community Certificate to the petitioner stating that the petitioner belongs to Kurumans (ST) Community. Along with the said application, the petitioner enclosed the Community Certificate and also the report of the State Committee relating to the said S.Theerthagiri and the Family Tree Certificate issued by the Tahsildar, Pappireddipatti, certifying that the petitioner herself and S.Theerthagiri are very close relatives.

(h) The petitioner further states that when once the petitioner's family members belong to Kurumans Community, which was verified by the State Level Scrutiny Committee, the respondent ought to have issued the Community Certificate to the petitioner. Since the Community Certificate is not issued till date, the petitioner has filed the present Writ Petition for the relief stated supra.

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



4. Be that as it may. Since already the petitioner's application was rejected on 14.09.2011, this Court cannot give any positive direction in this Writ Petition. The remedy open to the petitioner is only to file appeal before the District Collector challenging the said order of rejection, dated 14.09.2011, passed by the respondent-Revenue Divisional Officer, Harur, Dharmapuri, by enclosing necessary documents and Family Tree/Genealogy/Relationship Certificate of the petitioner. Hence, this Court, without expressing any view on the merits of the matter, directs the District Collector concerned in the event of the petitioner filing such appeal, to pass orders on merits and in accordance with law, taking into consideration the petitioner's close relatives' Community Certificate and all the necessary documents as stated above, that will be enclosed by the petitioner along with such appeal, within a period of six weeks from the date of receipt of a copy of this order from the Registry of this Court or production of a copy of this order by the petitioner, whichever is earlier. It is made clear that this Court has not expressed any opinion on the merits of the claim made by the petitioner and it is only for the District Collector concerned/Appellate Authority to analyse the merits of the case before passing any orders on the said appeal that may be filed by the petitioner as stated above. It is also made clear that before passing orders on the said appeal, the District Collector shall afford an opportunity of hearing to the petitioner.

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

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

CS
To

The Revenue Divisional Officer,
Harur, Dharmapuri District.

+1 CC to Mr.S.Doraisamy, Advocate sr 58378.
+1 CC to Govt. Pleader sr 59225.

W.P.No.19925 of 2019

PPA(CO)
SP(19/08/2019)