

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on: 31.07.2019
Orders Pronounced on : 07.08.2019

CORAM:

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

W.P.No.20071 of 2019

K.J.Tamilarasan .. Petitioner
Vs.

1. The Deputy Collector (Revenue) South,
Villianur,
Puducherry.
2. The Tahsildar-cum-District Magistrate,
Revenue Department,
Villiyannur,
Puducherry-605 110. .. Respondents

PRAYER:- 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 order dated 07.08.2018 passed by the second respondent in his proceedings No.3333/TOV/A2/Certificates/2018-19/08 and quash the same and consequently direct the respondents herein to issue a Community Certificate to the petitioner to the effect that he belongs to Adi Dravidar Scheduled Caste Community with origin status along with Residence-cum-Nationality Certificate.

For petitioner : M/s.Babu Rangasamy Associates

For respondents : Mr.Stalin Abhimanyu,
Govt. Advocate (Puducherry)

ORDER

R.SUBBIAH, J

The petitioner has come forward with the present Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 07.08.2018 passed by the second respondent in his proceedings No.3333/TOV/A2/Certificates/2018-19/08 and

quash the same and consequently direct the respondents herein to issue a Community Certificate to the petitioner to the effect that he belongs to Adi Dravidar Scheduled Caste Community with origin status along with Residence-cum-Nationality Certificate.

2. It is the case of the petitioner that he belongs to Adi Dravidar Scheduled Caste Community. His forefathers lived in the Union Territory of Puducherry and he is residing permanently at Puducherry along with his parents. Further, the petitioner's predecessors, viz., his grandfather Anandan as early as in the year 1931, purchased property in Puducherry, which shows that his predecessors originated from the Union Territory of Puducherry. The petitioner did his schooling at Puducherry and completed +2 in March 2018 and secured First Class. He appeared for 2019 NEET Examination and passed with 286 marks. The petitioner has produced his Community Certificate dated 20.07.2016 in support of his community status that he belongs to SC Adi Dravidar Community, issued by the Revenue Department of the Union Territory of Puducherry before the Director of CENTAC, Puducherry, who was looking after NEET admissions, and upon perusal of the same, he insisted the petitioner to furnish a recent Community Certificate. The CENTAC authorities were of the view that the Community Certificate issued to the petitioner by the Tahsildar, dated 20.07.2016 could not be treated as a recent one, as the same was issued three years ago. Hence, the petitioner, through his father, applied with the second respondent for issuance of a fresh Community-cum-Residence Certificate for him on 10.08.2017. The second respondent, after a delay of one year, rejected the claim for issuance of Community Certificate by the impugned order dated 07.08.2018, citing the reason that on the discreet enquiry conducted by them, it was found that neither the petitioner's father Karthikeyan, nor his grandfather Thanikachalam lived in Puducherry region on or before the promulgation of Presidential Order, namely the Constitution (Pondicherry) Scheduled Castes Order, 1964, which was notified in the Official Gazette on 05.03.1964, as they migrated to Puducherry region only after the crucial date, i.e. 05.03.1964. Hence, challenging the said order dated 07.08.2018, the petitioner has preferred this Writ Petition for the relief stated supra.

3. When the Writ Petition is taken up for consideration, the learned counsel for the petitioner, by adverting to the averments made in the affidavit, contended that the second respondent has passed the impugned order based on the report received from the Village

Administrative Officer (VAO) by conducting discreet enquiry. In this regard, the learned counsel submitted that it is well settled law that for issuance of Community Certificate, the Revenue Authorities cannot conduct any discreet enquiry behind the back of the individual seeking issuance of Community Certificate. If the enquiry had been conducted by affording an opportunity of hearing to the petitioner, he would have produced all the necessary documents in support of his claim. Since the discreet enquiry was conducted without affording an opportunity of hearing, based on which the VAO has submitted the report, the second respondent has passed the impugned order, which is liable to be set aside.

4. Countering the above submissions, the learned Government Advocate (Puducherry) appearing for the respondents, by filing counter affidavit, submitted that though the petitioner belongs to Hindu Adi Dravida Community, his father and his grandfather were origin of Palliyanaliyanur Village, Villupuram District of the State of Tamil Nadu. The petitioner's father had migrated to Thirubhuvanani Revenue Village of Puducherry region only after marrying his relative Tmt.Jayanthi, i.e. some 20 years back. The petitioner in his affidavit had stated that his great grandfather Thiru.Anandan had a property in Thirubhuvanai Village, which is evident from the sale deed scribed in French language, made in the year 1931, based on which the Caste Certificate of Scheduled Caste origin might be issued to his son. Though the petitioner's great grandfather Anandan had an agricultural land in Thirubhuvanai Revenue Village of Puducherry region, he belongs to Palliyanaliyanur of Tamil Nadu region. The petitioner's father Karthikeyan, nor his grandfather Thiru.Thanikachalam lived in Puducherry region on or before the promulgation of the said Presidential Order. The petitioner is entitled to claim the Certificate for Scheduled Caste origin status only in Tamil Nadu State, however, as the petitioner's family resided continuously in Puducherry for more than 5 years before the date of submission of application, the petitioner is only eligible for Nationality, Residence and Scheduled Caste Certificate with migration status at Puducherry Union Territory and the same can be issued by the second respondent on submission of caste proof obtained from the jurisdictional authority empowered to issue the Caste Certificate from his origin State of Tamil Nadu. Further, whenever the second respondent's office receives application for issuance of Community Certificate, fresh field enquiry and discreet enquiry, if necessary, will be conducted and only based on the outcome of the said enquiry, the Community Certificate

would be issued and the second respondent's officials are following all the relevant Rules and procedures in accordance with law. Hence, for these reasons, the learned Government Advocate (Puducherry) prayed for dismissal of the Writ Petition.

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

6. Be that as it may. The grievance of the petitioner is that without affording an opportunity of hearing to him, the discreet enquiry was conducted by the respondents. Had the discreet enquiry been conducted by affording an opportunity of hearing to him, he would have produced all the relevant documents to substantiate his claim. Therefore, the petitioner prayed for setting aside the impugned order.

7. In our considered opinion, as against the impugned order passed by the second respondent, the petitioner is having alternative remedy of appeal before the first respondent. Absolutely, there is no need for setting aside the impugned order and remit the matter back. Hence, the Writ Petition is liable to be dismissed. The petitioner is at liberty to file appeal before the first respondent-Deputy Collector, Revenue South, Villianur, Puducherry, within a period of four weeks from the date of receipt of a copy of this order, and on receipt of such appeal, the first respondent is directed to afford an opportunity of personal hearing to the petitioner during the course of enquiry. After hearing the petitioner as well as perusing the documents, if any that will be submitted by the petitioner during the hearing of the appeal in support of his claim, the first respondent is directed to dispose of the appeal, on merits and in accordance with law, within a period of four weeks from the date of filing of such appeal. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner and it is for the first respondent to decide the same at the time of disposing of the said appeal.

8. With the above observations and directions, the Writ Petition is dismissed. No Costs.

cs

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Deputy Collector (Revenue) South,
Villianur,
Puducherry.

2. The Tahsildar-cum-District Magistrate,
Revenue Department,
Villianur, Puducherry-605 110.

+1cc to Mr.Babu Rangasamy, Advocate, SR.No.67712

+1cc to the Govt.Pleader cum Public Prosecutor,
Vide Sr.No.67712

W.P.No.20071 of 2019

Kak(21/08/2019)



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