

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.23340 of 2019

and

W.M.P.No.23085 of 2019

M.Sudharshanam

.. Petitioner

Vs.

1. The District Collector, Villupuram.

2. The Revenue Divisional Officer,
Thirukovilur Taluk-605 757
Villupuram District.

3. Annamalai University,
Represented by its Registrar,
Annamalai University Campus,
Annamalai Nagar, Chidambaram,
Cuddalore-608 002.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the second respondent to issue Community Certificate to the petitioner as the member of (Hidun-Kaatunaicken) Scheduled Tribe Community.

For petitioner : Mr.V.Raghavachari

For respondents: Mr.V.Shanmuga Sundar, Spl.G.P. for RR-1 and 2
Mr.K.Sathish Kumar for R-3

ORDER

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

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Mandamus to direct the second respondent to issue Community Certificate to the petitioner as a member of (Hindu-Kaatu Naicken) Scheduled Tribe Community.

2. It is the case of the petitioner that his father is an agricultural labourer and he belongs to Scheduled Tribe (Hindu Kaatu Naicken) Community and was granted Community Certificate as per G.O.Ms.No.1773, dated 26.06.1984 by the second respondent- Revenue Divisional Officer (RDO), Thirukovilur. The

status of Hindu Kattu Naicken Community was accorded to the petitioner's cousin Basker and his Community Certificate was issued by the Revenue Divisional Officer after due verification. The petitioner's uncle and his family and the petitioner's sister's family had all been issued with the Community Certificate in respect of Kaatu Naicken Community. Hence, according to the petitioner, there is no legal embargo to issue Community Certificate to the petitioner. The petitioner filed an application to the second respondent-RDO to obtain the Community Certificate (Hindu Kaatu Naicken) for the petitioner as well as his brother Kamal Haasan on 01.09.2016. The said application was forwarded by the Tahsildar to the Revenue Inspector. Further, on 30.01.2017, though the Revenue Inspector has passed an order to issue Kaatu Naicken Community Certificate to the petitioner as well as his brother, the same was forwarded to the Deputy Tahsildar. In spite of the same, no action had been taken. In the meanwhile, the petitioner had passed Higher Secondary Schooling and as she is aspiring for further studies, and she had also applied to various colleges for her further education. The concerned college had demanded the petitioner to produce the Community Certificate.

3. Since no action was taken, the said Kamal Haasan, being the brother of the petitioner, represented by his father and natural guardian A.Muthu, had filed W.P.No.15337 of 2017, in which, this Court, on 29.06.2017 directed the Revenue Divisional Officer, Thirukovilur Taluk, Villupuram District to consider and dispose of the application submitted by the petitioner therein for Community Certificate on merits and as per law and this Court has also directed that such exercise shall be completed on or before 16.07.2017 and it was made clear by this Court in the said Writ Petition that the above direction had been issued on account of the pendency of the application since long and it should not be construed to be an expression of opinion on the merits of the matter and it was further observed in the said Writ petition that the application, should be decided in accordance with law and in the light of the settled legal principles in the matter governing the issuance of Scheduled Tribe Certificate.

4. It is further stated by the petitioner that subsequent to the disposal of the above said Writ Petition, the second respondent-RDO, Thirukovilur Taluk, Villupuram District, had rejected the said application filed on 02.09.2016. Challenging the same, an appeal was filed before the first respondent on 11.09.2017. The first respondent-District Collector had directed the Anthropologist Department to conduct field study and submit a report, pursuant to which, the Anthropologist Department concluded the field inspection with the assistance of the Tahsildar and submitted a report, in which he had concluded that the petitioner and his brother are eligible to get the Scheduled Tribe community status under the name of Kaatu Naicken. Even

after the said report, the Community Certificate was not issued to the petitioner. Now the petitioner has applied for B.Sc. (Agriculture) and the admission process had already commenced. The petitioner cannot attend the Counselling for the said course without the Community Certificate, which is mandatory. Hence, the petitioner has filed the present Writ Petition for the relief stated supra.

5. When the Writ Petition is taken up consideration, the learned counsel for the petitioner submitted that the xerox copy of the Community Certificate dated 14.07.2000 in respect of the petitioner's father, indicating the Community as Kaatu Naicken community, had been enclosed in the typed set of papers filed along with this Writ Petition. The petitioner has also enclosed the Anthropologist Report in the typed set of papers, relevant portion of which is as follows:

"Conclusion:

Keeping the above socio-cultural factors into consideration the Community which we have studied at No.24/42, Vellai Pillaiyalur Kovil Street, Thirukovilur, Villupuram District can be determined as tribe. It posses all the tribal characters and well established over a period. Hence, we conclude that the above community is Kattu Naicken community, which has been scheduled as Scheduled Tribe (ST) Category of Tamil Nadu. The above narrated ethnographic details of the studied community, in Cultural anthropological framework, reveal the fact that this community is having many characteristics of the Scheduled Tribe. The studies conclude that the community people are eligible to get Scheduled Tribe status under name of Kaatu Naicken Thiru.A.Muthu S/o Thiru.M.Kamalhasan, Thiru.Sudharsanan."

6. Thus, the learned counsel for the petitioner submitted that when the above said Anthropologist Report is in favour of the petitioner and the petitioner's father A.Muthu having been issued with the Community Certificate, dated 14.07.2000, the petitioner herein is also entitled for issuance of Community Certificate indicating the Community as Kaatu Naicken.

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

8. The learned Special Government Pleader appearing for the respondents 1 and 2 submitted that with regard to the genuineness of the said Community Certificate issued in favour of the petitioner's father A.Muthu, the enquiry is pending before the State Level Scrutiny Committee and only on completion

of the said enquiry, the petitioner will be issued with the Community Certificate indicating the Community as Kaatu Naicken.

9. In similar circumstances, this Court in a batch of Writ Petitions in W.P.No.7979 of 2019, by order dated 02.08.2019, had observed as follows:

"5. It is the contention of the learned counsel for the petitioner(s) that the father of the petitioner(s)/petitioner(s) being father(s), as the case may be, is/are having a valid Community Certificate and therefore, the children of the petitioner(s) or the petitioner(s) being children, as the case may be, are also entitled for the issuance of ST Community Certificate.

6. There is no doubt that if the father (s) is/are having a valid Community Certificates and if the said Community Certificates are not cancelled as on date, this Court's normal practice is that the concerned respondent/authority will be directed to issue Community Certificate and thereafter send the said Community Certificate to the State Level Scrutiny Committee for verification of the genuineness of the same.

7. Even in the instant cases, the fathers' Community Certificates were not yet cancelled so far. So long as the fathers' Community Certificate having been not cancelled till date, there is no impediment to issue Community Certificate to the children.

8. Therefore, in all these Writ Petitions, we are of the opinion that in the absence of cancellation of the Community Certificates of the fathers, it is not open for the respondent(s) to reject the application for issuance of the Community Certificate for the children. Hence, the children are entitled for issuance of Community Certificates.

9. Accordingly, this Court directs the respondents to issue Provisional Community Certificates to the petitioners' children or the petitioner(s) being children, as the case may be, by making an endorsement on the same that as per the, direction of this Court, the said Community Certificates is/are being issued, subject to the verification of the genuineness of the same by the State Level

Scrutiny Committee. After the conformity of the genuineness of the said Community Certificates by the State Level Scrutiny Committee, the respondent(s) shall issue permanent Community Certificates to the petitioners' children or the petitioner(s) being the children, as the case may be.

10. With the above observations and directions, these Writ Petitions are disposed of. No Costs."

10. Hence, following the above order passed in the said batch of Writ Petitions, this Court directs the respondents 1 and 2 herein to issue Provisional Community Certificate to the petitioner, within a period of one week from the date of receipt of a copy of this order, by making an endorsement on the Community Certificate that as per the direction of this Court, the said Provisional Community Certificate is being issued, subject to the verification of the genuineness of the same by the State Level Scrutiny Committee. After the conformity of the genuineness of the said Community Certificate by the State Level Scrutiny Committee, the respondents 1 and 2 shall issue permanent Community Certificate to the petitioner.

11. With the above observations and directions, the Writ Petition is disposed of. No costs. Consequently, W.M.P. is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector, Villupuram.

2. The Revenue Divisional Officer,
Thirukovilur Taluk-605 757
Villupuram District.

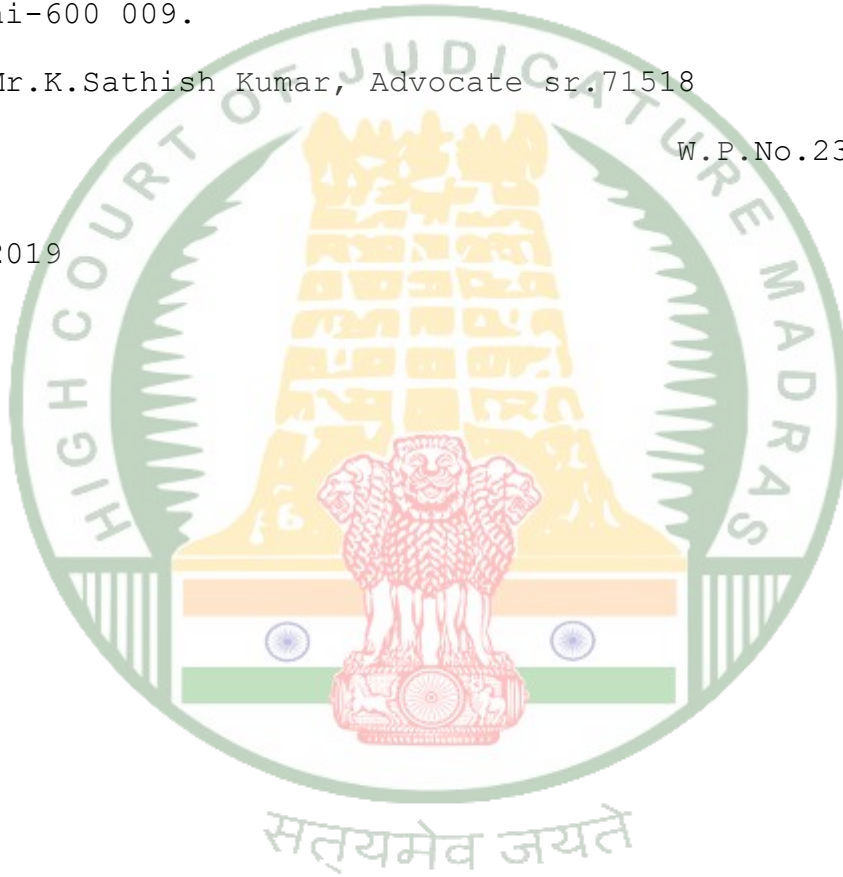
3. Annamalai University,
Represented by its Registrar,
Annamalai University Campus,
Annamalai Nagar, Chidambaram,
Cuddalore-608 002.

4. The Chairman,
The State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Secretariat,
Chennai-600 009.

+1cc to Mr.K.Sathish Kumar, Advocate sr.71518

W.P.No.23340 of 2019

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