

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 30.08.2019

Orders Pronounced on : 19.09.2019

CORAM:

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

W.P.No.23852 of 2019

S.Velusamy ... Petitioner

Vs.

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

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 order of rejection passed in Na.Ka.10937/2015/A4, dated 20.10.2016 which was signed on 11.03.2019 on the file of the respondent, quash the same and direct the respondent to issue Community Certificate to the children of the petitioner, viz., (i) V.Adithya and (ii) V.Sudev that they belong to "Kurumans (ST) Community" based upon the Community Certificate possessed by the petitioner and his sister and other family members.

For petitioner : Mr.S.Doraisamy

For respondent : 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 records relating to the order of rejection passed in Na.Ka.10937/2015/A4, dated 20.10.2016, which was signed on 11.03.2019 on the file of the respondent, quash the same and direct the respondent to issue Community Certificate to the children of the petitioner, viz., (i) V.Adithya and (ii) V.Sudev that they belong to "Kurumans (ST) Community" based upon the Community Certificate possessed by the petitioner and his sister and other family members.

2. It is the case of the petitioner that he belongs to Kurumans Community, which is classified as Scheduled Tribe Community. His wife also belongs to Kurumans Community. Even in school records, his community is entered as Kurumans. The petitioner obtained Community Certificate from the respondent on 09.04.1997 stating that he belongs to Kurumans Community. His sister S.Chitra also obtained Community Certificate from the respondent on 09.04.1997 stating that she belongs to Kurumans Community. The above Certificates were issued to the petitioner and his sister after due enquiry and they are still valid and not yet cancelled by any of the authorities. The petitioner's educational qualification is B.A., B.Ed., and he is working as B.T. Assistant in Government Higher Secondary School, Beharahalli. Even in his Service Register, the petitioner's Community is entered as Kurumans (ST) Community.

3. While so, the petitioner preferred an application to the respondent on 18.11.2014 for issuance of Community Certificate for his children named above and along with the said application, he had enclosed necessary documents in support of his claim. On 20.05.2015, the respondent issued notice to the petitioner to appear for enquiry which was to be held on 23.05.2015. Accordingly, he appeared for the enquiry before the respondent and the respondent recorded his statement. Since no order was passed, the petitioner filed a Writ Petition in W.P.No.29211 of 2015 praying for issuance of a Writ of Mandamus to direct the respondent to issue Community Certificate to his children that they belong to Kurumans (ST) Community based upon the Community Certificate already possessed by the petitioner and his sister. This Court, in the said Writ Petition, by order dated 13.10.2015, directed the respondent to dispose of the application made on 18.11.2014 within a period of four weeks from the date of the said order of this Court. However, no Community Certificate was issued by the respondent. The petitioner sent a reminder request to the respondent on 15.10.2018 and 21.02.2019. After four years, the respondent passed the impugned order dated 20.10.2016, signed on 11.03.2019, holding that the other close relatives entry in the School records and Birth/Death Registers show that they belong to Kurumba and Kurumbar Community and hence, the petitioner's Community Certificate was forwarded to the State Level Scrutiny Committee to verify the petitioner's community and he further held that only thereafter, he can pass the final order.

4. It is the further case of the petitioner that this Court, in number of cases held that there is no such Community "Kurumbar" and the Secretary to Government issued a Circular in Letter No.901/CV1/2014-1, dated 18.03.2014 to all the competent authorities to recall the Certificates already issued as Kurumbar and not refer or rely upon the name as Kurumbar in any

of the proceedings. Hence, challenging the said order dated 20.10.2016 of the respondent, the petitioner has preferred this Writ Petition for the relief stated supra.

5. 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.

6. Opposing the case of the petitioner, the learned Special Government Pleader appearing for the respondent, by filing counter affidavit, submitted that the petitioner has preferred an application to the respondent on 18.11.2014 for issuance of Community Certificate for his children named above, along with copies of documents in support of his claim, i.e. his Community Certificate issued by the then Revenue Divisional Officer (RDO), Dharmapuri, dated 09.04.1997 and his School Transfer Certificate. The writ petitioner had not submitted any other document when he appeared before the respondent in response to the notice issued by the respondent, dated 20.05.2015 and the statement of the petitioner was recorded in his favour without producing any original documents in support of his averment regarding the issuance of Scheduled Tribe (ST) Community Certificate to his children. Hence, the respondent has passed the impugned order on 20.10.2016 itself. While passing the impugned order, the respondent held that during his enquiry and verification of the School Admission Register of the Elementary School of Paruvathanahalli Village, it revealed that the petitioner's aunty's community was entered as Kurumbar and the daughter of the petitioner's aunty's community was entered as Kurumba. The then RDO had held that according to the entries of the School Records and Birth Registers, the petitioner's family belongs to Kurumba Community, which is classified as Backward Class. The writ petitioner himself obtained Backward Class Community Certificate from the Taluk Office. The petitioner's Community Certificate was referred to the State Level Scrutiny Committee and therefore, as soon as the order is passed by the said Committee, the respondent would pass appropriate orders on the application submitted by the petitioner for issuance of Community Certificate to his children.

7. The learned Special Government Pleader appearing for the respondent further contended that in similar nature of cases, one of which is order dated 02.08.2019 in W.P.No.7979 of 2019 etc., batch, when the Community Certificate of the father therein was not cancelled, this Court has directed the authorities to issue provisional Community Certificate to the applicant therein, endorsing therein that the same is being issued on the direction of this Court and subject to verification of the genuineness of the same by the said

Committee, and after conformity of the genuineness of the said Community Certificate by the said Committee, the authority shall issue permanent Community Certificate to the applicant therein. Hence, the learned Special Government Pleader appearing for the respondent prayed that similar order could be passed in the present Writ petition also.

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

9. No doubt, this Court, in similar matters, had passed the orders as stated above. In the instant case, in the counter affidavit, it has been clearly stated that the petitioner himself obtained Backward Class (BC) Community Certificate from the Taluk Office. Therefore, it means that the petitioner is possessing two Certificates, one as BC Community Certificate indicating the community as Kurumba/Kurumbar and the other one indicating as Kurumans Community Certificate. Under such circumstances, we cannot follow the above discussed earlier order of this Court in W.P.No.7979 of 2019, etc. batch. However, this Court is of the view that the petitioner may file appeal as against the impugned order as observed in the last paragraph therein.

10. Accordingly, the petitioner is entitled to file appeal as against the impugned order, where he can establish his claim with regard to the genuineness of the Community Certificate(s) by producing relevant documents. With these observations, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District.

W.P.No.23852 of 2019

RSV (CO)
SSM(16/10/2019) .