

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 26.02.2019
Orders Pronounced on : 06.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.Nos.26750 and 26753 of 2018

P.Ramakrishnan ... Petitioner in W.P.No.26750 of 2018

P.Muthusamy ... Petitioner in W.P.No.26753 of 2018

Vs.

The Sub-Collector,
Mettur,
Salem District. ... Respondent in both the Writ Petitions

Writ Petition No.26750 of 2018 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 Proceedings in Na.Ka.No.1451/2016/T, dated 31.08.2018 on the file of respondent, quash the same and direct the respondent to issue Community Certificate to the petitioner and his children, viz., (1) R.Naveen Kumar and (2) R.Gunaseelan that they belong to Kurumans (ST) Community based upon the verification report of the State Level Scrutiny Committee in Proceedings No.21289/CVIII/2008, dated 10.06.2014 in respect of petitioner's close blood relative C.Govindaraj.

Writ Petition No.26753 of 2018 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 Proceedings in Na.Ka.No.1464/2016/T, dated 31.08.2018 on the file of respondent, quash the same and direct the respondent to issue Community Certificate to the petitioner and his children, viz., (1) M.Venkatasubramanian and (2) M.Kanchana and (3) M.Soundaraj that they belong to Kurumans (ST) Community based upon the verification report of the State Level Scrutiny Committee in

Proceedings No.21289/CVIII/2008, dated 10.06.2014 in respect of petitioner's close blood relative C.Govindaraj.

For petitioners : Mr.S.Doraisamy in both Writ Petitions

For respondent : Mr.D.Raghu,
Govt. Advocate in both Writ Petitions

COMMON ORDER

R.SUBBIAH, J

Writ Petition No.26750 of 2018 is filed praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order of rejection passed in Proceedings in Na.Ka.No.1451/2016/T, dated 31.08.2018 on the file of respondent, quash the same and direct the respondent to issue Community Certificate to the petitioner and his children, viz., (1) R.Naveen Kumar and (2) R.Gunaseelan that they belong to Kurumans (ST) Community based upon the verification report of the State Level Scrutiny Committee in Proceedings No.21289/CVIII/2008, dated 10.06.2014 in respect of petitioner's close blood relative C.Govindaraj.

2. Writ Petition No.26753 of 2018 is filed praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order of rejection passed in Proceedings in Na.Ka.No.1464/2016/T, dated 31.08.2018 on the file of respondent, quash the same and direct the respondent to issue Community Certificate to the petitioner and his children, viz., (1) M.Venkatasubramanian and (2) M.Kanchana and (3)M.Soundaraj that they belong to Kurumans (ST) Community based upon the verification report of the State Level Scrutiny Committee in Proceedings No.21289/CVIII/2008, dated 10.06.2014 in respect of petitioner's close blood relative C.Govindaraj.

3. The petitioners herein belong to Kurumans Community which is a Scheduled Tribe Community. They are doing Agriculture work. They did not obtain any ST Community Certificate, since it was not required for them at that time. In all their School Records, their Community is entered as Kurumans. The petitioners' father's brother's son C.Govindaraj obtained Community Certificate on 18.05.1995 and the said C.Govindaraj's Community Certificate was subjected to verification by the State Level Scrutiny Committee, which by order dated 10.06.2014, concluded that his Community Certificate is genuine and he belongs to Kurumans Community. The petitioners preferred applications to the respondent on 27.01.2016 requesting to issue Community Certificate to them and their children named above, by indicating that they belong to Kurumans (ST) Community, which were rejected on 16.06.2017 stating that the petitioners and their relatives belong to

Kurumba and Kurumbar Communities. Challenging the said rejection orders, the petitioners filed W.P.Nos.34318 of 2017 and 121 of 2018 respectively, and this Court, by order dated 14.02.2018, while disposing of the said Writ Petitions, set aside the said order dated 16.06.2017 and remitted the matter back to the respondent with a direction to consider the applications of the petitioners for issuance of Community Certificate to their children afresh. The respondent was directed to examine the relationship between the petitioners and the said C.Govindaraj, by affording an opportunity of hearing to the petitioners and on being satisfied with the blood relationship between the petitioners and the said C.Govindaraj, the respondent was directed to pass appropriate orders within a period of eight weeks from the date of receipt of a copy of the order. It was made clear that the said order was passed by this Court without expressing any opinion on the merits of the claim made by the petitioners and even if the Community Certificates are issued, the same would be subject to verification at a later point of time by the State Level Scrutiny Committee.

4. Pursuant to the said orders of this Court, the respondent issued notice to the petitioners and their cousin brother C.Govindaraj for enquiry. Accordingly, they appeared for the enquiry before the respondent on 21.05.2018. The respondent recorded their statements and the petitioners have also proved their relationship. As per the said order of this Court, dated 14.02.2018, the respondent shall examine the relationship between the petitioners and the said C.Govindaraj. However, the respondent relied on the earlier order dated 16.06.2017 and re-produced the same order on 31.08.2018, against which, the present Writ Petitions are filed.

5. When the Writ Petitions were taken up for consideration, learned counsel for the petitioners made detailed submissions by adverting to the averments made in the Writ Petitions.

6. The learned Government Advocate, by filing counter affidavits of the respondent, submitted that the petitioner and his family members belong to Hindu Kurumba/Kurumbar Community which is classified as MBC. Though the petitioners are claiming that their father's brother's son C.Govindaraj was issued with Community Certificate stating that he belongs to Kurumans Community, on field enquiry and from the available records, the respondent came to know that all the close relatives of the petitioners are Hindu Kurumba/Kurumbar Community. In this regard, learned Government Advocate invited the attention of this Court to the particulars/details furnished in the counter affidavit with regard to the school records of the petitioner-Muthusamy and the relations of the petitioners, which reads as follows:

(I) (a) School Records details of Muthusamy:

Sl.No.	Name	School	Admission No.	Date of Birth	Community
1	Muthusamy S/o Perumal	PUMS, T.Kanegaralli	1318	30.05.1973	Kurumba
2	Muthusamy S/o Perumal	PUMS, T.Kanegaralli	1562	30.05.1973	Kurumba

(I) (b) School Records details of the petitioners' relations:

Sl. No.	Name	School	Admission No.	Date of Birth	Community
1	Perumal S/o Kariyagounder (father of petitioner)	PUMS, T.Kanegaralli	803	20.05.1961	Kurumbar
2	Sivan S/o Kariyagounder (uncle of petitioner)	PUMS, T.Kanegaralli	809	25.05.1961	Kurumbar
3	Subramanian S/o Kariyagounder (uncle of petitioner)	PUMS, T.Kanegaralli	586	17.01.1955	Kurumbar
4	Saratha D/o Kariyappan (Niece of petitioner)	PUMS, T.Kanegaralli	865	12.05.1963	Kurumba
5	Narashiman S/o Kariyappan (Nephew of petitioner)	PUMS, T.Kanegaralli	1170	21.05.1970	Kurumba
6	Aranganathan S/o Perumal (Nephew of petitioner)	PUMS, T.Kanegaralli	681	30.05.1971	Kurumba
7	Gokulakrishnan S/o Chittaraman (Relation of petitioner)	PUMS, Umiampatti	680	31.05.1971	Kurumba
8	Jaganathan S/o Chittaraman (Relation of petitioner)	PUMS, Umiampatti	250	05.04.1959	Kurumbar

Sl. No.	Name	School	Admission No.	Date of Birth	Community
9	Thirumoorthi S/o Chittaraman (Relation of petitioner)	PUMS, Umiamatti	408	25.05.1964	Kurumba
10	Mallagounder S/o Muniyagounder (Relation of petitioner)	PUMS, Thoppur	408	15.07.1934	Kurumbar
11	Madhiyan S/o Mallagounder (Relation of petitioner)	PUMS, Thoppur	07	06.01.1952	Krumbar
12	Chinnasamy S/o Mallagounder (Relation of petitioner)	PUMS, Umiamatti	339	20.05.1962	Kurumbar
13	Sanmugam S/o Mallagounder (Relation of petitioner)	PUMS, Umiamatti	796	02.03.1974	Kurumbar

7. Learned Government Advocate appearing for the respondent further submitted that the respondent analysed the Salem District Census Handbook, 1961, Volume I, regarding the Scheduled Tribes Community in Salem District and as per the above Salem District Census Handbook, 1961, Volume-I, the Scheduled Tribes of Adiyar, Irular, Kadar, Kattunayakan, Koraga, Malayali, Sholaga and unclassified, are only living in Salem District and in this regard, learned Government Advocate also brought to the notice of this Court the following details furnished in the counter affidavit:

Sl. No.	Name of the Community	Male	Female	Total
1	Adiyar	0	1	1
2	Irular	2402	2215	4617
3	Kadar	0	2	2
4	Kattunayakan	82	72	154
5	Koraga	1	0	1
6	Malayali	47294	45430	92724
7	Sholaga	31	37	68
8	Unclassified	180	184	364

8. Thus, the learned Government Advocate submitted that the respondent had thoroughly gone through the above records and the documents submitted by the petitioners and their family members and also relating to the other similar community members and only thereafter, the respondent has passed the impugned orders rejecting the applications of the petitioners seeking issuance of Community Certificates to them and their children.

9. Considering the submissions made by both sides, we are of the opinion that this Court cannot conduct roving enquiry in the matter of issuance of Community Certificate to the petitioners and their children, since in the present case, it appears from the counter affidavit that detailed enquiry was conducted by the respondent before passing the impugned orders.

10. Learned counsel for the petitioners relied on an order passed by this Court in W.P.No.21630 of 2018, dated 27.09.2018 (D.Duraisamy Vs. The Revenue Divisional Officer, Dharmapuri), wherein this Court had quashed the impugned order of rejection of issuance of Community Certificate therein and directed the respondent therein to issue Kurumans (ST) Community Certificate to the petitioner therein and his children and granted liberty to the respondent therein to send the same for verification to the State Level Scrutiny Committee. Following the said order passed by this Court in W.P.No.21630 of 2018, this Court cannot give positive direction to the respondent herein to issue Community Certificate to the petitioners and their children and thereafter to refer the Community Certificate to the State Level Scrutiny Committee for verification. The said order of this Court is distinguishable on facts and circumstances of the present case.

11. The proper alternative remedy available for the petitioners is to file appeal before the District Collector concerned by assailing the orders dated 31.08.2018 impugned in these Writ Petitions.

12. With the above liberty to the petitioners to prefer appeal, the Writ Petitions are dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

CS

To

The Sub-Collector, Mettur,
Salem District.

Copy TO

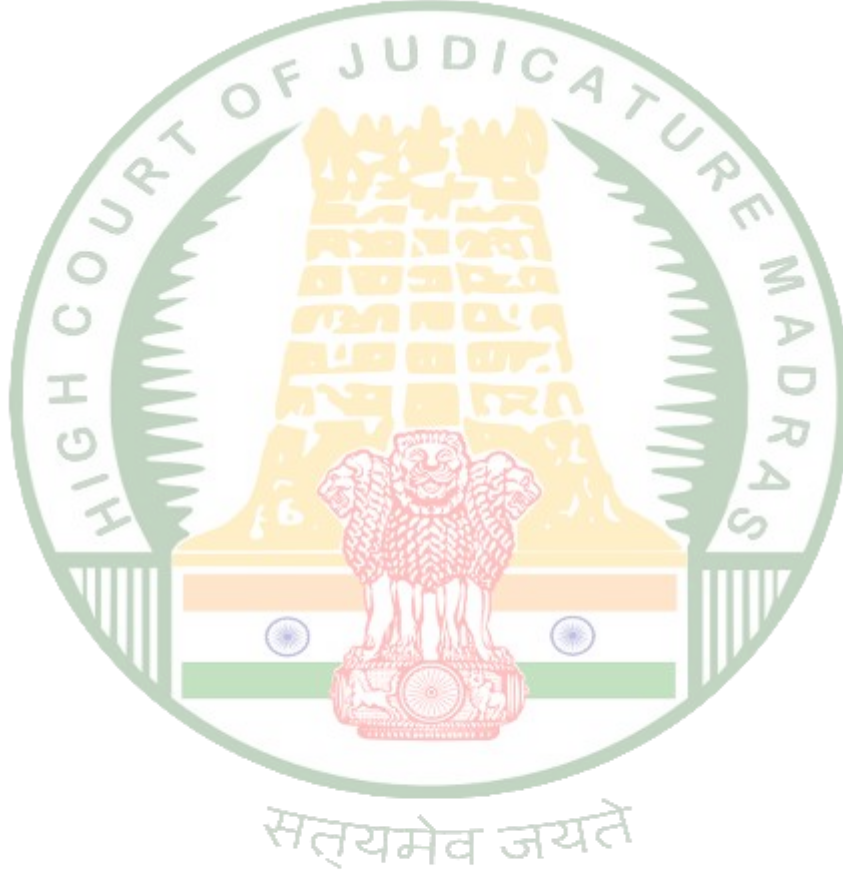
The District Collector,
Salem District.

+1cc to Mr.S.Doraisamy, Advocate, S.R.No. 21137

+1cc to the Government Pleader, S.R.No. 21499

W.P.Nos.26750 and 26753 of 2018

GJ(CO)
GN(03/04/2019)



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