

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.08.2019
DELIVERED ON : 19.08.2019

CORAM

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

Writ Petition No.27704 of 2018

Anjana
W/o.S.Gowdappa

...Petitioner

Vs

The Sub-Collector,
Dharmapuri.

... Respondent

Writ Petition filed under Article 226 of The Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for records of the order bearing No.Pa.Mu.8225/2015/A4 dated 17.09.2018 and quash the same and direct the respondent to issue 'Kurumans' Scheduled Tribe Community Certificates to the petitioner, her husband Gowdappa and her children, viz., Lokesh Kumar and Loga Ilakkiya.

For Petitioner : Mr.M.Radhakrishnan

For Respondent : Mr.V.Shanmuga Sundar
Special Government Pleader

ORDER

[Order was delivered by R.SUBBIAH, J]

Petitioner has filed the above Writ Petition seeking quash of the order of respondent passed in No.Pa.Mu.8225/2015/A4 dated 17.09.2018 and consequently, direct the respondent to issue 'Kurumans' Scheduled Tribe Community Certificates to petitioner, her husband Gowdappa and her children, viz., Lokesh Kumar and Loga Ilakkiya.

2. Heard learned counsel for petitioner and learned Special Government Pleader for respondent. Perused the materials on record.

3. Learned counsel for petitioner submitted that the petitioner belongs to 'Kurumans' community, which is a Scheduled Tribe Community. Petitioner submitted an application dated 24.08.2015 to Revenue Divisional Officer, Dharmapuri, through the office of the District Collector, Dharmapuri, seeking issuance of Community Certificates to her, her husband and children stating that they belong to 'Kurumans' community. Since no action was taken on the petitioner's application, she filed W.P.No.14416 of 2016 seeking a direction to Revenue Divisional Officer to consider and pass appropriate orders on the petitioner's application. This Court, under orders dated 24.01.2016, directed the Revenue Divisional Officer to pass appropriate orders on the petitioner's application. Pursuant thereto, an enquiry was conducted by the Revenue Divisional Officer and the petitioner has also produced copy of proceedings of the State Level Scrutiny Committee dated 01.12.2014 declaring that one Adiyaman, petitioner's paternal uncle's grand son, belongs to 'Kurumans' community. Petitioner has also produced the Community Certificate of her brother's son and the State Level Scrutiny Committee is yet to render a finding on the genuineness of such certificate. However, the Revenue Divisional Officer, under orders dated 18.08.2017, without considering the documents produced by petitioner, has kept the petitioner's application in abeyance. Challenging the same, petitioner filed W.P.No.11214 of 2018 before this Court. Taking into consideration the facts surrounding the case, this Court, under orders dated 05.06.2018, has passed the following order:

'i) The writ petition is allowed. The impugned order is set aside and the matter is remitted back to the respondent.

ii) The petitioner is directed to produce a copy of the community certificate of Adiyaman and on such production, the respondent shall consider the application of the petitioner for issuance of community certificate to the petitioner and her family members.

iii) The respondent shall examine the blood relationship between the petitioner and Adiyaman by affording an opportunity of hearing to the petitioner and on being satisfied with the same, the respondent shall pass appropriate orders. The said exercise shall be done by the respondent within a period of one month from the date of receipt of a copy of this order.'

Pursuant thereto, respondent, under the impugned order, rejected petitioner's application. The grievance of petitioner is that

the respondent, without adhering to the directions issued by this Court, has rejected petitioner's application. Submitting as above, learned counsel prayed this Court to set aside the order passed by the respondent and remit back the matter to respondent for fresh consideration.

4. Learned Special Government Pleader for respondent, placing reliance on the counter filed by respondent, submitted that pursuant to the direction issued by this Court, petitioner was called for an enquiry and she had appeared. On enquiry, it is found that petitioner's parents are retired Government employees. Hence, their Service Register/Service Book has been collected from appropriate authorities, wherein petitioner's father's community was mentioned as 'Hindu-Non Brahmin-Kurumba' and mother's community was mentioned as 'Indian-Hindu-Kurumbar'. Petitioner's parents belong to MBC category. It is further found that Adiyaman is not the close blood relative of petitioner. It is also found that the petitioner's blood relatives community status were recorded as 'Kurumba/Kurumbar' in all records. Submitting as above, learned Special Government Pleader, contended that the impugned order has been passed after conducting due enquiry and in keeping with the directions issued by this Court and prayed for dismissal of the Writ Petition.

5. This Court has considered the rival submissions.

6. It is the contention of petitioner that in spite of the direction given by this Court in W.P.No.11214 of 2018, the respondent has rejected her application without taking into account the Community Certificate of her paternal uncle's grand son, whose communal status was declared by State Level Scrutiny Committee. Thus, learned counsel for petitioner prayed for setting aside the impugned order passed by respondent and consequently, direct the respondent to issue 'Kurumans' Scheduled Tribe Community Certificates to petitioner, her husband Gowdappa and her children, viz., Lokesh Kumar and Loga Ilakkiya. Per contra, it is the submission of learned Special Government Pleader that pursuant to the order passed by this Court a detailed enquiry was conducted and during the enquiry, it was found that the said Adiyaman, who claims to be paternal uncle's grand son of the petitioner is not close blood relative and hence, respondent has rejected the petitioner's application.

7. Be that as it may, the respondent is disputing the relationship of the Adiyaman with the petitioner and hence, this Court cannot give any positive direction to the respondent to issue Community Certificate. However, petitioner is entitled to file an appeal before the District Collector challenging the order of respondent, before whom he can prove his relationship with the said Adiyaman.

8. In the aforesaid circumstances, this Court directs the petitioner to prefer an appeal, enclosing all relevant documents, challenging the order of respondent and in the event of such an appeal being filed, the District Collector is directed to consider the same and pass orders on merits and in accordance with law, after affording an opportunity of hearing to the petitioner, at the earliest, preferably, within a period of eight weeks from the date of filing of appeal by the petitioner.

The Writ Petition is disposed of with the above direction.
No costs.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

gm

To

1.The District Collector,
Dharmapuri.

2.The Sub-Collector,
Dharmapuri.

+1cc to Mr.M.Radhakrishnan, Advocate SR.No.70334

Writ Petition No.27704 of 2018

SSD (CO)
GMY (12/09/2019)

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