

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2019

CORAM:

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

W.P.No.29554 of 2018
and
W.M.P.No.34507 of 2018

R.Sivakumar .. Petitioner
Vs.

1. The District Collector,
Salem, Salem District.
2. The Sub Collector-cum-Revenue Divisional Officer,
Revenue Divisional Office,
Mettur Dam,
Salem District-636 401. ... 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 of the first respondent in Na.Ka.No.261/2017/Thi.A., dated 19.06.2018 and quash the same and consequently direct the second respondent to issue a Community Certificate to the petitioners' minor children (1)S.P.Dhiyaneswaran, (2)S.P.Arunthathika stating that they belong to Kurumans (Scheduled Tribe) Community.

For petitioner : Mr.M.Elango
For respondents : Mr.J.Pothiraj, Spl.G.P.

ORDER

(The Order of the Court was made by 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 of the first respondent in Na.Ka.No.261/2017/Thi.A., dated 19.06.2018 and quash the same and consequently direct the second respondent to issue a Community Certificate to the petitioners' minor children (1) S.P.Dhiyaneswaran, (2)S.P.Arunthathika stating that they belong to Kurumans (Scheduled Tribe) Community.

2. It is stated by the petitioner that he has two children, namely (1)S.P.Dhiyaneswaran and (2)S.P.Arunthathika and they are studying III Std. and UKG respectively. The petitioner belongs to Kurumans Community, which is a Scheduled Tribe Community. The petitioner's close relatives, namely maternal/paternal uncles were granted Community Certificate by the respondents stating that they belong to Kurumans Community. In the Study Certificate issued by the Annai India Matriculation Higher Secondary School for his son, it is mentioned that his son belongs to Kurumans Community. Likewise, the School Certificate issued by Mauriya Nursery and Primary School for his daughter, it is mentioned that she belongs to Kurumans Community.

3. It is further stated by the petitioner that since the School Authority of the petitioner's children directed the petitioner to produce Community Certificate for them, the petitioner made an application to the respondents on 05.08.2015 seeking to grant Community Certificate to his children stating that they belong to Kurumans Community. The said application was duly received by the second respondent on 06.08.2015. However, he has not taken any steps to conduct enquiry and issue the Community Certificate. Hence, the petitioner filed a Writ Petition before this Court in W.P.No.28512 of 2015 seeking a direction to the second respondent to pass orders on the said application. This Court, on 10.09.2015, disposed of the said Writ Petition, directing the second respondent to pass orders on the said application. However, the second respondent has not passed orders. Hence, the petitioner filed Contempt Petition before this Court. Thereafter, the second respondent has passed an order on 24.02.2017 rejecting the application seeking Community Certificate for his children. However, the second respondent, in the order had stated that the petitioner's two children belong to Kurumba Community, which is coming under the category of Most Backward Class (MBC). In fact, while conducting enquiry by the second respondent, the petitioner had produced his close relatives' Community Certificate mentioning the Community as Kurumans.

4. Aggrieved by the said rejection order of the second respondent, the petitioner filed a Writ Petition in W.P.No.9211 of 2017 before this Court, which was disposed of by this Court on 12.09.2017 permitting the petitioner to file an appeal before the District Collector within a period of two weeks and upon filing such appeal, the first respondent shall dispose of the same within a period of eight weeks therefrom. Accordingly, the petitioner filed an appeal before the District Collector on 28.09.2017, and the same was rejected by the impugned order, dated 19.06.2018. Hence, the petitioner has filed the present Writ Petition for the relief stated supra.

5. When the Writ Petition is taken up for consideration, learned counsel for the petitioner made submissions advertent to the averments made in the affidavit filed in support of the Writ Petition.

6. The learned Special Government Pleader appearing for the respondents, by filing counter affidavit, submitted that the writ petitioner does not belong to Kurumans Community. He did not submit his Community Certificate claiming Kurumans during verification. The petitioner's father Thiru.Rajendra's Community is mentioned as Kurumbar in School records, which comes under Most Backward Class (MBC). The field enquiry and available records show that all close relatives of the petitioner are Hindu Kurumba and Hindu Kurumbar. Thus, the learned Special Government Pleader prayed for dismissal of the Writ Petition.

7. The learned Special Government Pleader also submitted that as against the impugned order passed by the first respondent-District Collector, the petitioner has to only approach the State Level Scrutiny Committee, as per G.O.(Ms). No.147, Revenue (RA-3(2)) Department, dated 17.03.2016.

8. Considering the submissions made on either side, we are of the opinion that this Court cannot entertain the prayer made in this Writ Petition, since this Court is not conducting any roving enquiry with regard to the communal status of the petitioner. The remedy for the petitioner is only to approach the State Level Scrutiny Committee as per the said G.O., with regard to the redressal of his grievances.

9. Accordingly, the petitioner is at liberty to approach the State Level Scrutiny Committee within a period of two weeks from the date of receipt of a copy of this order. In the event of the petitioner approaching the State Level Scrutiny Committee, the said Committee shall dispose of the matter on merits and in accordance with law, within a period of three months thereafter.

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

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Sd/-

Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

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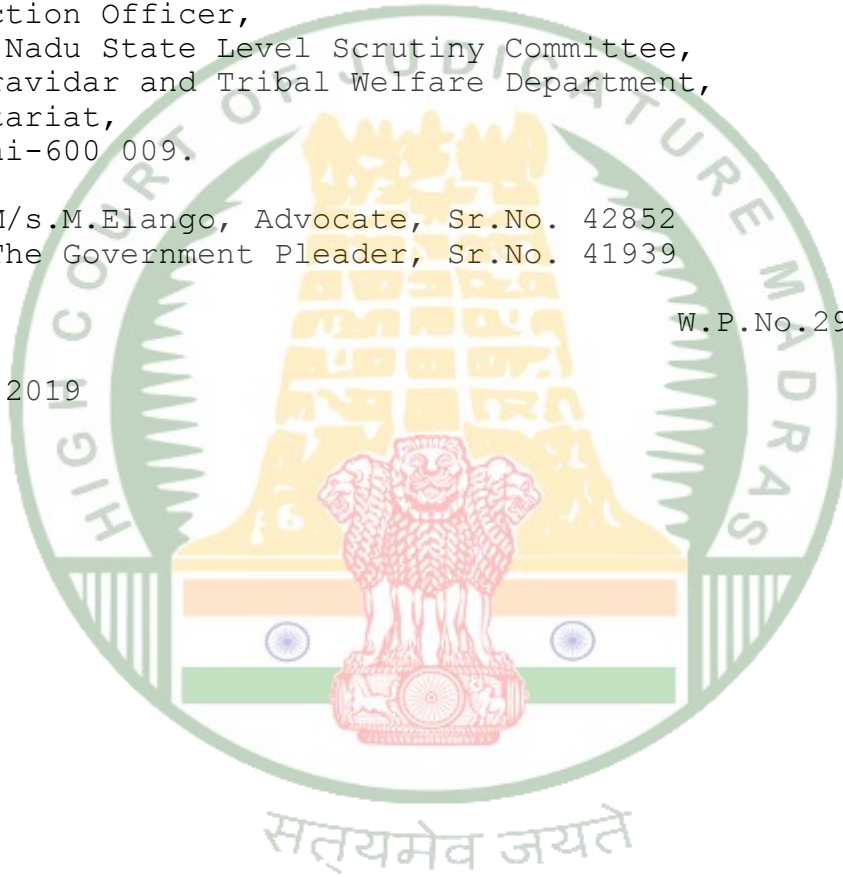
To

1. The District Collector,
Salem, Salem District.
2. The Sub Collector-cum-Revenue Divisional Officer,
Revenue Divisional Office,
Mettur Dam,
Salem District-636 401.
3. The Section Officer,
Tamil Nadu State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Secretariat,
Chennai-600 009.

+1 cc to M/s.M.Elango, Advocate, Sr.No. 42852
+1 cc to The Government Pleader, Sr.No. 41939

W.P.No.29554 of 2018

SSV(CO)
CSL/10.06.2019



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