



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 10.07.2019

CORAM:

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.8080 of 2018andW.M.P.(MD) No.7658 of 2018

R.Avudaiyappan

... Petitioner

vs.

1) The District Collector,
O/o Collectorate,
Tuticorin District,
Tuticorin.

2) The Sub-Collector,
O/o Sub-Collector,
Tuticorin District,
Tuticorin.

3) The Revenue Divisional Officer,
O/o Revenue Divisional Officer,
Kovilpatti Taluk,
Tuticorin District,
Tuticorin.

4) The Tahsildhar,
O/o Taluk Office,
Kovilpatti Taluk,
Tuticorin District,
Tuticorin.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Na.Ka.Aa3/3852/2016 dated 14.03.2018 on the file of the Respondent No.3 and quash the same as illegal and consequently direct the Respondent Nos.2 and 3 to issue Community Certificate to his daughter (A.Gayathri) and son (A.Hariprasad) certifying that they belong to Hindu Scheduled Tribe (Kattu Nayakkan) Community within the time frame fixed by this Court.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.N.Shanmugaselvam,

Additional Government Pleader

**ORDER**

(Order of this Court was made by **K.RAVICHANDRABAABU**)

The petitioner is aggrieved against the proceedings of the third respondent dated 14.03.2018 wherein and whereby his request for grant of community certificate to his children was rejected on the reason that he has not furnished sufficient documents. In the very same proceedings, the third respondent also informed the petitioner that he can again approach with sufficient documents for getting such community certificate.

2. Heard Mr.S.Rajasekar, learned counsel for the petitioner and Mr.N.Shanmugaselvam, learned Additional Government Pleader for the respondents.

3. The petitioner claims to belong to the Kattu Nayakkan community and to that effect a community certificate is also issued by the Tahsildhar, Kovipatti in the name of the petitioner. It is further claimed that the petitioner's wife is also possessing the said community certificate in her name issued by the Revenue Divisional Officer, Tirunelveli. It is further contended that the petitioner's brother's children were also issued with the community certificate indicating that they belong to Hindu Kattu Nayakkan community. However, the third respondent rejected the request of the petitioner by observing that no community certificate was ever issued to the petitioner's family from the office of the third respondent.

4. The learned counsel for the petitioner, after inviting our attention to the community certificate which is said to have been issued by the third respondent to the petitioner in C.C.No.2314571 dated 18.07.1989 indicating that the petitioner belongs to Kattu Nayakkan community, submitted that the above observation of the third respondent as if no such certificate was issued to the petitioner's family is factually incorrect. He further contended that there are sufficient materials to consider the claim of the petitioner for grant of community certificate to his children, which the third respondent failed to consider.

5. Though the learned Special Government Pleader appearing for the respondents contended that as against the order passed by the third respondent, an appellate remedy is available to the petitioner, we are inclined to remit the matter back to the third respondent himself, since it appears that the third respondent's observation as if no such community certificate was issued to the members of the petitioner's family is factually incorrect, if the Community Certificate found in the typed set of papers at page 10, 11 and 12 have been issued to the petitioner is found to be genuine. Therefore, it is for the third respondent to consider the



matter afresh based on the materials to be placed by the petitioner and pass fresh order on merits and in accordance with law.

6. Accordingly, without expressing any view on the merits on the claim made by the petitioner and also with regard to the genuineness of the community certificate said to have been issued to the petitioner by the Tahsildar, Kovilpatti as stated supra, we allow the writ petition and remit the matter back to the third respondent/Tahsildhar, for passing fresh orders after giving due opportunity of hearing to the petitioner. The petitioner shall appear before the third respondent with all the relevant materials/ documents within a period of two (02) weeks from the date of receipt of a copy of this order. On receipt of such documents/ materials, the third respondent shall consider the matter afresh and pass orders on merits in accordance with law within a period of four(04) weeks from the date of receipt of a copy of this order. Accordingly, the Writ Petition is allowed as indicated above. No costs. Consequently, connected W.M.P.(MD) No.7658 of 2018 is closed.

Sd/-

Assistant Registrar (Cs-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

- 1) The District Collector, O/o Collectorate, Tuticorin District, Tuticorin.
- 2) The Sub-Collector, O/o Sub-Collector, Tuticorin District, Tuticorin.
- 3) The Revenue Divisional Officer, O/o Revenue Divisional Officer, Kovilpatti Taluk, Tuticorin District, Tuticorin.
- 4) The Tahsildhar, O/o Taluk Office, Kovilpatti Taluk, Tuticorin District, Tuticorin.

+1cc to Mr.T.Lajapathi Roy, Advocate in SR.74717