

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.28232 of 2013

Sijila Mary

... Petitioner

Vs

1. Union of India,
Represented by the Secretary to Government,
Department of Revenue and Disaster Management,
Government of Union Territory of Puducherry,
Puducherry.

2. The Regional Administrator,
Mahe,

3. The Deputy Tahsildar (Revenue),
Mahe.

4. The Officer on Special Duty,
Directorate of Health & Family Welfare Services,
Government of Union Territory of Puducherry,
Puducherry.

..... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records on the file of the 2nd respondent relating to the impugned order dated 30.09.2013 bearing Ref. No. 3833/RAM/PRA/PP/2013 and quash the same and consequently direct the respondents to issue the Nativity Certificate to the petitioner.

For petitioner : Ms.S.Gopika Nambiar
for
M/s.Sai Bharath and Ilan

For respondents : Mr.B.Nambi Selvan,
Additional Government Pleader
(Pondy) for respondents

ORDER

This writ petition has been filed challenging the order dated 30.09.2013 passed by the second respondent and for a consequential direction to direct the respondents to issue the Nativity Certificate to the petitioner.

2. It is the case of the petitioner that she hails from Mahe, which forms part of Pondicherry State and as such, she applied for Nativity Certificate vide her application dated 14.09.2013. It is her case that she was selected to the post of ANM/Maternity Assistant in Health Department of Government of Puducherry, vide appointment order dated 05.09.2013. While so, pending enquiry, her appointment order for the aforesaid post was cancelled and hence, she approached the Central Administrative Tribunal by filing Original Application in O.A. No.1299 of 2013 and obtained an order of status quo pending disposal of the original application. However, it is her case that under the impugned order dated 30.09.2013, the second respondent without affording an opportunity of personal hearing has rejected the application for Nativity Certificate. Aggrieved by the same, this writ petition has been filed.

3. A counter affidavit has been filed by the third respondent stating that the guidelines issued as per G.O. Ms.No.48, dated 12.12.2002 issued by the Revenue Department, Puducherry has not been fulfilled by the petitioner and hence, she is not entitled for the Nativity certificate. According to them, the petitioner is residing at her husband's house at Perunthattil, Thalasserry Taluk, Kannur District, Kerala State and hence, she is not a resident of Mahe Region for the past five continuous years.

4. Heard Ms.S.Gopika Nambiar, learned counsel for the petitioner and Mr.B.Nambiselvan, learned Additional Government Pleader (Pondicherry) appearing for respondents.

5. Admittedly, as seen from the impugned order, dated 30.09.2013, no notice has been given to the petitioner nor any opportunity of personal hearing has been afforded to the petitioner by the second respondent before passing the impugned order rejecting the petitioner's application for Nativity Certificate. The observation made in the impugned order is that after conducting enquiry by the Deputy Tahsildar, it was ascertained that the petitioner has stayed for a short period at her parent's home and since last one and half years the applicant is staying at her husband's house at Perunthattil, Thalasserry Taluk, Kannur District, Kerala State. In the

impugned order, the second respondent has also not mentioned as to when the enquiry was conducted and the date of the enquiry report is also not mentioned in the impugned order. The only ground raised by the petitioner in this writ petition is that the principles of natural justice have been violated, as the second respondent has not afforded any opportunity to the petitioner to place all records pertaining to her residence.

6. After perusing and examining the impugned order, this Court is in agreement with the submissions made by the petitioner. Accordingly, the impugned order, dated 30.09.2013 is hereby quashed as principles of natural justice have been violated and the matter is remanded back to the second respondent for fresh consideration.

7. In the result, the second respondent is directed to consider the application dated 14.09.2013 submitted by the petitioner for Nativity certificate and pass final orders on merits and in accordance with law, after affording sufficient opportunity to the petitioner to place all records in support of the proof of her residence, within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the aforesaid directions, the Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
Union of India,
Department of Revenue and Disaster Management,
Government of Union Territory of Puducherry,
Puducherry.

2. The Regional Administrator,
Mahe,

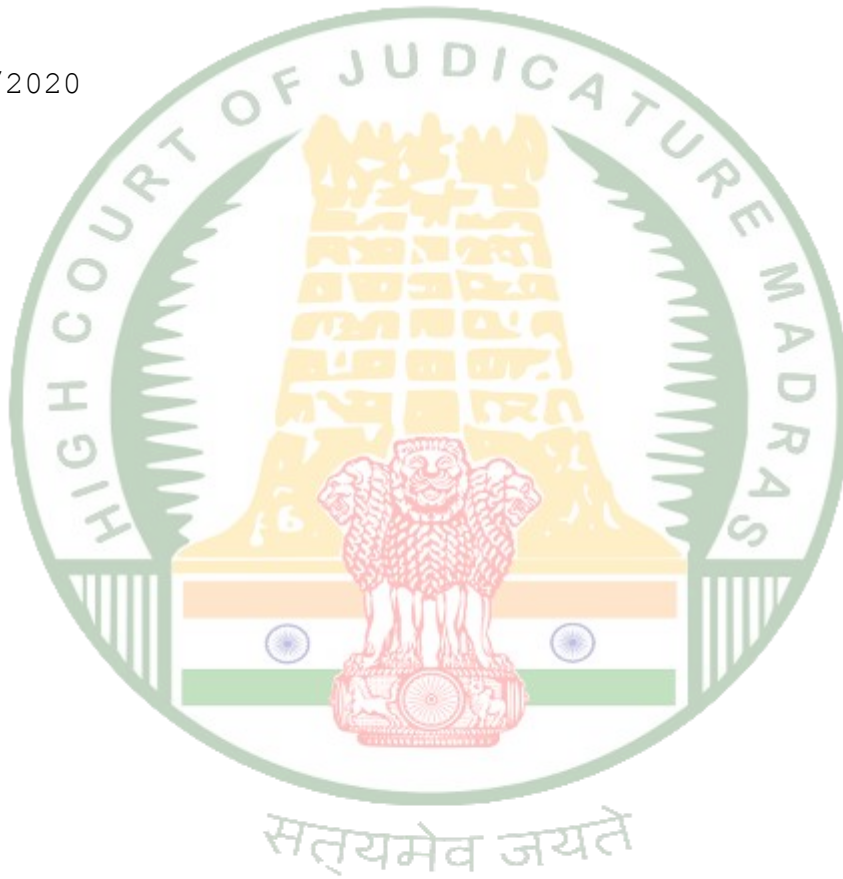
3. The Deputy Tahsildar (Revenue),
Mahe.

4. The Officer on Special Duty,
Directorate of Health & Family Welfare Services,
Government of Union Territory of Puducherry,
Puducherry.

+1cc to Mr.R.Saravanan, Advocate Sr.12828
+1cc to the Government Pleader Sr.13163

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srg 12/03/2020



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