

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15-06-2020

Coram:

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

Writ Petition No.7998 of 2020

Tmt. M. Jayalakshmi
Wife of Mahendran
Chinnakana Halli Village
Errapayanahalli Post
B. Agraharam Via.,
Dharmapuri District ... Petitioner

Versus

1. The Revenue Divisional Officer
Dharmapuri
Dharmapuri District
2. The Assistant General Manager (HR),
HR Department
State Bank of India, LHO
Chennai-600 001 ... Respondents

Petition filed under Article 226 of The Constitution of India praying for issuing a Writ of Mandamus directing the first respondent to implement the State Level Scrutiny Committee order passed in favour of the petitioner in Proceedings No.5675/CVIII/2018-5 dated 31.01.2020 and to issue community certificate to the petitioner and her children viz., 1. M. Santhiya 2. M. Vallarasu and 3. M. Poovarasan that they belong to Kurichan (ST) community.

For Petitioner : Mr. S. Doraisamy
For Respondents : Mr. V. Jayaprakash Narayanan
Government Pleader

ORDER

(The Order of the Court was made by R.Subbiah,J)

The petitioner has filed this writ petition to issue a Writ of Mandamus directing the respondents to implement the order

passed in her favour by the State Level Scrutiny Committee on 31.01.2020 and to issue a community certificate to her and her children to the effect that they belong to Kurichan (Schedule Tribe) Community.

2. It is seen from the affidavit filed in support of the writ petition that the petitioner had earlier filed WP No. 12210 to 12212 of 2012 before this Court seeking to issue a Mandamus directing the first respondent to dispose of the application dated 31.01.2008 submitted by her for issuing community certificate to her and her children. During the pendency of WP No. 12210 to 12212 of 2012 filed by the petitioner, an order dated 30.07.2012 was passed by the first respondent refusing to issue such a certificate to the petitioner. Assailing the order dated 30.07.2012, petitioner filed another WP No.23670 of 2012 before this Court. By order dated 17.12.2013, this Court, set aside the order dated 30.07.2012 of the first respondent and remanded the matter back to the first respondent for consideration afresh. After remand, by an order dated 13.06.2014, the first respondent passed an order of rejection, which was challenged in WP No. 26750 of 2016. By order dated 01.08.2016, this Court disposed of the writ petition with a direction to the appellate authority viz., The District Collector, Dharmapuri to pass appropriate orders on the claim of the petitioner. On 13.11.2017, an order of rejection was passed by the District Collector, Dharmapuri, which was challenged by the petitioner by filing WP No.2741 of 2018. By order dated 08.02.2018, this Court disposed of the WP No. 2741 of 2018 with a direction to the petitioner to prefer an appeal to the State Level Scrutiny Committee. Accordingly, the petitioner preferred an appeal but the appeal was not disposed of. Therefore, the petitioner filed yet another writ petition in WP No.12614 of 2019 for a Mandamus to direct the State Level Scrutiny Committee to pass appropriate orders on the appeal preferred by the petitioner. Ultimately, by an order dated 31.01.2020, the State Level Scrutiny Committee passed an order declaring that the petitioner and her children belong to Kurichan - Schedule Tribe Community and directed the first respondent to issue a community certificate to that effect. According to the petitioner, in spite of such an order dated 31.01.2020 passed by the State Level Scrutiny Committee, the first respondent did not issue the community certificate. The petitioner also submitted a representation dated 13.02.2020 to the respondents to issue community certificate to her as per the order passed by the State Level Scrutiny Committee on 31.01.2020, however, there was no response, therefore, the petitioner has come up with the present writ petition for issuing a Mandamus.

3. The learned counsel for the petitioner would contend that Sandhiya, the daughter of the petitioner was selected and

appointed to the post of Junior Associate (Customer Support and Sales) in the State Bank of India. However, the petitioner's daughter could not get appointment letter from the State Bank of India for non-production of community certificate. Thus, it is his contention that the non-production of the community certificate has deprived employment opportunity to the daughter of the petitioner and therefore, he prayed for issuing appropriate direction to the first respondent for issuing community certificate to the petitioner and her children.

4. When the writ petition was taken up for hearing, this Court passed an order dated 11.06.2020, which can usefully be quoted hereunder:-

"3. The first respondent - Revenue Divisional Officer, Dharmapuri, may give his instructions to the learned Government Pleader by tomorrow itself and show appropriate cause as to why community certificate was not issued in favour of the petitioner, despite the decision of the concerned competent Committee way back on 31.01.2020, as such non-issuance of community certificate has resulted in withholding of the appointment of the petitioner as Junior Associate by the respondent State Bank of India.

4. List the matter on 12.06.2020."

5. Subsequently, when the writ petition was listed again on 12.06.2020, this Court passed the following order.

"2. We are surprised by the stand taken by the learned Government Pleader and his submission that the proceedings of the State Level Committee dated 31.01.2020 was not submitted before the earlier Revenue Divisional Officer and therefore, she could not comply with the same. We are dismayed with this submission equally because the copy of the proceedings dated 31.01.2020 is enclosed in the paper book and it was duly endorsed and forwarded to the said Revenue Divisional Officer (see page 36 of paper book). It, prima facie, appears that the Revenue Divisional Officers are deliberated avoiding the compliance with the directions issued by the State Level Committee and avoiding the issuance of community certificate to the petitioner and her children, which has resulted in depriving the petitioner to get the appointment letter from State Bank of India for the post which she was selected.

3. We direct both the Revenue Divisional Officers to be present in Video Conferencing on 15.06.2020 at 10.30 am.

4. We further direct that Ms. Thenmozhi, to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Only) from her personal resources with the Registrar

General of this Court on 15.06.2020 itself and show cause further as to why the amount be not forfeited, and transferred to the Legal Services Authority for the legal aid to the poor and why disciplinary action should not be directed to be taken against her by her Appointing Authority.

5. We further direct the present incumbent, viz., Mr. V. Thanikachalam, shall remain present in the Court with the community certificate in favour of the petitioner and her children ready, and which may be handed over to the petitioner or her counsel on Monday, i.e., on 15.06.2020 itself. If he fails to do so, he will be directed to deposit the sum of Rs.50,000/- from his personal resources with the Registrar General of this Court and the said amount deposits would be are liable to be forfeited and transferred to Tamil Nadu State Legal Services Authority.

6. Post on 15.06.2020."

6. Today, when the writ petition is listed for hearing, we have heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents through Video Conferencing. During the course of hearing, the learned Government Pleader produced an Affidavit of compliance report of Ms.V.Thenmozhi sent through e-mail. He also produced the copy of the community certificate issued in favour of the petitioner and her children through e-mail, which was also acknowledged by the learned counsel for the petitioner. In the affidavit of compliance filed by Ms.V.Thenmozhi, it is stated as follows:-

"3. I humbly submit that as soon as I have received representation from the writ petitioner, I have called for a report from the Tahsildar, Nalampalli in order to issue Scheduled Tribe Certificate to the petitioners as per State Level Scrutiny report and the enquiry is with regard to the Name and Address of the petitioners, so as to verify their Name and Residence along with the supportive documents like Transfer Certificate, Aadhar etc., Due to Covid-19 outbreak the report was not received due to which I was unable to issue Community Certificate in time to the petitioners herein till I was transferred.

4. I humbly submit that since I have been posted as Assistant Commissioner (Excise) and holding additional charge of the Revenue Divisional Officer, Dharmapuri, I was engaged in containment of Covid-19 Pandemic outbreaks for the past three months and also making arrangements to provide shelter and send stranded workers from other States to their native

place. I further humbly submit that most of the office staffs are diverted and engaged in duties related to Covid-19 outbreaks. I also submit that I have been assigned duty to supervise the Quarantine Centre at Dharmapuri which is formed for quarantine of the persons who came from other Districts and States. Due to the above reasons the certificate has not been issued to the petitioner in time.

5. I humbly submit that due to failure of my office to bring my notice about the order of the Tamil Nadu State Level Scrutiny Committee and my joining as Revenue Divisional Officer (i/c) Dharmapuri, I could not able to pass orders for which I regret myself for the delay and also I tender my unconditional apology before the Honourable High Court for our failure in timely action.

6. It is further respectfully submitted that the views of the Hon'ble Court was communicated to the present officer and me over my mobile phone by the learned State Government Pleader after attending the case in the above Writ Petition on 11.06.2020. Thereafter, I have informed the present officer to conclude the enquiry and issue certificates as per order of the State Level Scrutiny Committee and accordingly the present officer got the report of Tamil Nadu State Level Scrutiny Committee vide Roc.No.5675/CVIII/2018-5 dated 31.01.2020 and issued the certificates to the petitioner and their children as mentioned above on 12.06.2020.

7. I further respectfully submit that before issuing the community certificates to the petitioner and their children, the case was taken up for hearing through Video Conferencing on 12.06.2020 and this Honourable Court found that I and the present officer failed to carry out the orders passed by the State Level Scrutiny Committee order and imposed cost of Rs.50,000/- (Rupees Fifty Thousand Only) to me and directed to pay the same on or before 15.06.2020 and directed me to appear before the Hon'ble Court through Video Conference. The Hon'ble Court also further held that if the order is not complied the present officer is also liable to pay a sum of Rs.50,000/- (Rupees Fifty Thousand Only). The same was communicated by the learned State Government Pleader through letter dated 12.06.2020 to the first respondent and me through mail.

8. I further respectfully submit that so far in my entire service career under various capacities. I never been questioned/charged by my superior authorities for failure of my responsibility and I

never been found guilty/facing any charges for disobeying the orders of my superior officers/authorities. If the cost portion of the order is not recalled I would be put to irreparable loss and much hardship and my entire service condition will be affected badly. If this Hon'ble Court comes to the conclusion that I have committed any lapses in discharging duty I once again tender my unconditional apology before this Hon'ble Court.

In the above circumstances, I humbly pray that the Honourable High Court of Madras may be pleased to purge me from the proposed proceedings and recall the order of imposing cost on me by an order dated 12.06.2020 in WP No.7988 of 2020 and thus render justice."

7. We have gone through the affidavit of compliance filed by Ms.Thenmozhi, the erstwhile Revenue Divisional Officer, Dharmapuri, who is presently working as Assistant Commissioner (Excise). In the affidavit, it was stated that she was pre-occupied with the duties related to prevention of Covid-19 outbreak and that is the reason why the order passed by this Court could not be complied with in time. In the affidavit of compliance, she has also tendered her unconditional apology for the delay caused in complying with the order passed by this Court.

8. Admittedly, even on 12.06.2020, the date on which this Court passed an order, as aforesaid, the community certificates have been issued to the petitioner and her children and it was also acknowledged by the counsel for the petitioner. Having regard to the above, we are inclined to modify the order dated 12.06.2020 passed by this Court and to waive the amount of Rs.50,000/- directed to be paid by the first respondent herein. Accordingly, the order dated 12.06.2020 passed in the above writ petition stands modified. As the petitioners are in receipt of the community certificates, as prayed for in the writ petition, nothing survives for adjudication in this writ petition. Accordingly, the writ petition is disposed of. No costs. Consequently, connected WMP No.9439 of 2020 is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Revenue Divisional Officer
Dharmapuri
Dharmapuri District.
2. The Assistant General Manager (HR)
HR Department
State Bank of India, LHO
Chennai - 600 001

WP No.7998 of 2020

RSK(CO)
GN(22/10/2020)



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