

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 25.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.41105 of 2015

V.Sujisha

.. Petitioner

vs.

1.The Government of Puducherry,
Represented by its Secretary to Government,
(Revenue Department),
Puducherry.

2.The Regional Administrative Officer,
Mahe P.O., Govt. House,
Mahe District,
Puducherry (U.T.) - Pin 673 310.

3.The Deputy Collector (Revenue),
Mahe.

4.The Deputy Tahsildar (Revenue),
Mahe.

5.The Village Administrative Officer,
Mahe.

....Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for writ of certiorarified mandamus by calling for the records relating to order vide No.1108/STOM/T3/2015/124 dated 18.06.2015 issued by the 4th respondent and quash the same and direct the 4th respondent to pass orders on the representation dated 11.08.2015 and reminder dated 01.09.2015 and issue nativity certificate in favour of the petitioner by conducting fresh enquiry and giving an opportunity of hearing to the petitioner and also considering the documents submitted by the petitioner.

For Petitioner

: Ms.G.Thamizharasi,
for M/s.Giridhar and Sai

For Respondents

: Mr.Nambi Selvan,
Additional Government Pleader
(Pondy)

ORDER

This writ petition has been filed challenging the order dated 18.06.2015 passed by the fourth respondent and for a consequential direction to direct the fourth respondent to issue the nativity Certificate to the petitioner.

2. It is the case of the petitioner that she is a permanent resident of Mahe which falls within the State of Pondicherry. It is her case that even after her marriage to a Keralite on 05.09.2010, she has been living only at Mahe which is her permanent residence. According to her, arbitrarily by total non-application of mind, the respondents have passed the impugned order rejecting the application for community certificate and nativity certificate. It is also the case of the petitioner that without any notice and without holding any enquiry, the impugned order has been passed in violation of the principles of natural justice. In such circumstance, 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 and community certificate. According to them, the petitioner is residing at her husband's house at Olavilam of Kannur District, Kerala State and hence, she is not entitled for the nativity certificate for her address at 1/433, Valappil House, Parakkal, Mahe.

4. Heard Mrs.G.Thamizharasi, learned counsel for the petitioner and Mr.Nambi Selvan, learned Additional Government Pleader (Pondicherry) for the respondents.

5. Admittedly, as seen from the impugned order dated 18.06.2015, no notice has been given to the petitioner or any personal hearing afforded to the petitioner by the fourth respondent before passing the impugned order rejecting the application of the petitioner for nativity certificate and community certificate. The only observation made in the impugned order is that on discreet field enquiry, it was ascertained that the petitioner is not an ordinary resident of Mahe Region for the past two continuous years. In the impugned order, the fourth respondent has also not mentioned as to when the discreet 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 principles of natural justice have been violated as the fourth 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 18.06.2015 has to be quashed as principles of natural justice have been violated and the matter will have to be remanded back to the fourth respondent for fresh consideration.

7. In the result, the impugned order dated 18.06.2015 passed by the fourth respondent is hereby quashed and the matter is remanded back to the fourth respondent for fresh consideration and the fourth respondent is directed to consider the application dated 11.08.2015 and reminder dated 01.09.2015 submitted by the petitioner for nativity certificate and community 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. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government,
(Revenue Department), सत्यमेव जयते
Puducherry.

2.The Regional Administrative Officer,
Mahe P.O., Govt. House,
Mahe District,
Puducherry (U.T.) - Pin 673 310.

3.The Deputy Collector (Revenue),
Mahe.

4.The Deputy Tahsildar (Revenue),
Mahe.

5.The Village Administrative Officer,
Mahe.

+1cc to M/s.Giridhar & Sai, Advocate Sr.16135

+1cc to the Government Pleader Sr.16924

W.P.No.41105 of 2015

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srg 17/04/2020



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