

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 23.01.2020

Pronounced on : 11.02.2020

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.13868 of 2019

Arulmani,

.. Petitioner

..Vs..

1.The District Collector,
O/o. The District Collector,
Namakkal District.

2.The Sub-Collector,
O/o. The Sub Collector,
Namakkal,
Namakkal District.

3.The Tahsildar,
O/o. Tahsildar,
Namakkal Taluk,
Namakkal District.

4.The Tahsildar,
O/o. Tahsildar,
Rasipuram Taluk,
Namakkal District.

सत्यमेव जयते

.. Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, directing to call for the records pertaining to the impugned order passed by the 2nd respondent vide O.Mu.7214/2017/A3 dated 05.06.2018 and quash the same and consequently direct the respondents to issue Destitute Widow Certificate to the petitioner enabling her to get employment opportunity existing to the above category of persons.

For Petitioner : Mr.D.Shanmugaraja Sethupathi
For Respondents : Mrs.P.Rajalakshmi,
Special Government Pleader.

ORDER

This Writ Petition has been filed in the nature of Writ of Certiorarified Mandamus, questioning the order of the 2nd respondent, namely, the Sub-Collector, Namakkal District, dated 05.06.2018 and quash the same and direct the said official to issue a certificate to the petitioner categorizing her as a Destitute Widow.

2. The petitioner Arulmani, wife of late Nanthakumar, resident of Rasipuram, Namakkal District, had completed her SSLC and could not pursue further education due to poverty. She belongs to the Scheduled Caste Community. She was married to one Nanthakumar of Namakkal Town. A female child was born out of their wedlock. Her husband Nanthakumar, met with an accident and died on 13.12.2013. Thereafter, the petitioner and her minor daughter lived with her parents. She is doing some coolie work.

3. The petitioner submitted an application to the 4th respondent, Tahsildar, Namakkal District, seeking certificate as Destitute Widow, so as to get some employment on the quota available to the Destitute widow. The 4th respondent had sent a letter to the 3rd respondent namely, Tahsildar, Namakkal Taluk, Namakkal District, to submit a report whether to any movable and immovable property stands in the name of the petitioner's husband. Accordingly, the 3rd respondent has sent a report, stating that there is no property standing in the name of the petitioner's husband. The 4th respondent, then sent a report to the 1st respondent recommending to issue the Destitute Widow Certificate. The 4th respondent also referred to the report given by the concerned Village Administrative Officer and the Revenue Inspector. It was stated that the petitioner was doing coolie work and nobody in her family was working in Government Service or in Private Sector and her monthly income would be Rs.3,000/-. The second respondent, however, rejected the request for issuing Destitute Widow Certificate. It is under these circumstances, that the Writ Petition has been filed by the petitioner.

4. In the counter affidavit filed by the 2nd respondent, it had been stated that though, the 3rd respondent had stated that the petitioner is earning Rs.3,000/- by doing coolie work, the Revenue Inspector, Namakkal, also conducted enquiry on 02.04.2018 and in his report, he stated that there is a tiled

house worth about 18 lakhs at Namakkal, over which the deceased husband and his four brothers have title and that the petitioner had since contracted another marriage about a year back. It is stated that the Tahsildar, Namakkal, had also conducted the second enquiry and his enquiry also revealed that she had contracted a second marriage. It is therefore stated that she would not be liable to get Destitute Widow Certificate.

5. An additional counter affidavit also filed by the 2nd respondent in which it had been stated that she had contracted second marriage and also gave birth to a child. It was also stated that since her father was very hostile during the enquiry, documents could not be procured regarding this fact.

6. Heard arguments advanced by Mr.D.Shanmugaraja Sethupathi, learned counsel for the petitioner and Mrs.P.Rajalakshmi, learned Additional Government Pleader for the respondents.

7. The petitioner has completed SSLC. She could not study further owing to poverty. She belongs to Scheduled Caste Community. Her husband Nanthakumar died on 13.12.2013. A female child had been born to her. She had been residing with her parents. She claims that she is doing coolie work and maintaining herself and her daughter. Since her income is less than Rs.4,000/-, in accordance with G.O.Ms.No.229, Personnel and Administrative Reforms (Personnel. R) Department, dated 07.04.1998 and Rules regarding the destitute widow, she is entitled to get certificate as Destitute Widow. An enquiry was also made by the Tahsildar and he has also affirmed that she has no higher income and she is dependent on her coolie work. However, the 2nd respondent appears to have directed a further enquiry by the Tahsildar and it is claimed, without any documentary proof, that she had contracted marriage and also has a second child. As explanation for not providing document to support the said averment, it is stated that the father of the petitioner chased away the Tahsildar during the enquiry and stated that he could commit suicide.

8. These are facts which are stated by the 2nd respondent and not by the Tahsildar. The Tahsildar had given a certificate that she has no income to maintain herself. The Tahsildar had also not filed any counter affidavit before this Court with respect to these facts. The said facts are not substantiated by any manner by the respondents.

9. In view of these facts, there being two different versions, I have no hesitation in setting aside the impugned order and directing a fresh enquiry to be conducted by the 4th respondent, namely, the Tahsildar, Rasipuram Taluk, Namakkal

District, with respect to the eligibility or otherwise of the petitioner to seek Destitute Widow Certificate.

10. With the above observations, the Writ Petition is allowed, with the direction to the 4th respondent to enquiry further into the issue and thereafter, the 2nd respondent to pass appropriate orders, at any rate, on or before 30.04.2020. No order as to costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To,

1.The District Collector,
O/o. The District Collector,
Namakkal District.

2.The Sub-Collector,
O/o. The Sub Collector,
Namakkal,
Namakkal District.

3.The Tahsildar,
O/o. Tahsildar,
Namakkal Taluk,
Namakkal District.

4.The Tahsildar,
O/o. Tahsildar,
Rasipuram Taluk,
Namakkal District.

+1cc to Mr.D.Shanmugaraja Sethupathi, Advocate sr.11207

nm(co)
nr 12/02/2020