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Cont.P. No. 531 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 03-03-2021
Order pronounced on : 19-03-2021

Coram

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

Contempt Petition No. 531 of 2020
and
Sub.A.No.267 of 2020

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Vijetha Dhinakaran,
No.15, First Cross Street,
Perambur High Road,
Chennai – 600 012

.. Petitioner

Versus

1. Mrs. Lalitha
The Tahsildar
Purasawalkam-Perambur Taluk
Chennai - 600 011

2. Mr. A. Shanmuga Sundaram, I.A.S.,
The District Collector
Office at Collectorate
Chennai

.. Respondents

Petition filed under Section 10 and 11 of The Contempt of Courts Act praying to punish the respondents for contempt of Court for wilfully disobeying the order of this Court dated 15.04.2019 passed in Review Application No. 82 of 2019 and Contempt Petition No. 578 of 2019.



For Petitioner : Mr. Yogesh Kannadasan
For Respondents : Mrs. Narmadha Sampath
Additional Advocate General
assisted by Mr. M. Elumalai
Additional Government Pleader

ORDER

R. SUBBIAH, J

This contempt petition is filed by the petitioner praying to initiate contempt proceedings against the respondents herein for their wilful disobedience in not complying with the order passed by this Court on 15.04.2019 in Review Application No. 82 of 2019 in W.P.No.6255 of 2019, and also Contempt Petition No. 578 of 2019.

2. The petitioner herein has filed Writ Petition No. 6255 of 2019 before this Court praying to issue a Writ of Mandamus directing the first respondent herein to re-issue the Community Certificate, dated 24.03.2008 bearing No. 5414041 by mentioning the name of her father Edward Kumar instead of her husband name Dinakaran.

3. In the writ petition, it was specifically averred by the petitioner that she had successfully cleared the preliminary level and main level examination conducted by the Union Public Service Commission. It is further stated that when she was preparing for her interview, she received an e-mail dated



06.02.2009 from the Union Public Service Commission stating that in the Community Certificate produced by her, her father's name is not mentioned and therefore, she was called upon to produce the Community Certificate by incorporating her father's name. It is in those circumstances, she filed the said Writ Petition.

4. The Writ Petition was resisted by the first respondent herein by contending that the petitioner is from Andaman and Nicobar Islands and that there is no community classified in Andaman and Nicobar Islands as "Schedule Caste" under the Constitution (Andaman and Nicobar Islands) Scheduled Tribes Order, 1959 as amended by the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976. Therefore, it was submitted that the petitioner seems to have obtained Community Certificate as belonging to "Hindu Adi Dravidar" based only on the Community Certificate of her husband. It was further stated that the discreet enquiry conducted by the respondents disclosed that the husband of the petitioner, as also her father, professes Christianity as their religion. Therefore, the respondents opposed the claim of the petitioner that she belongs to Hindu Adi Dravida Community. Therefore, the respondents prayed for dismissal of the writ petition.

5. After hearing the learned counsel for both sides, by order dated

12.03.2019, we have issued a direction to the first respondent herein to re-issue



the Community Certificate as sought for by the petitioner, inasmuch as the petitioner has already been issued with a Community Certificate and she only seeks to incorporate the name of her father thereon, as required by the Union Public Service Commission in their selection process.

6. Complaining non-compliance of the order dated 12.03.2019 made in WP No. 6255 of 2019, the petitioner has filed Contempt Petition No.578 of 2019 praying to punish the first respondent herein for the wilful non-compliance of the order dated 12.03.2019.

7. On notice, the respondents herein filed Review Application No. 82 of 2019 to review the order dated 12.03.2019 in WP No. 6255 of 2019.

8. In the Review Application, it was contended by the respondents that the writ petitioner was born and brought up at Andaman and Nicobar Islands. She was a resident of Andaman and Nicobar Islands till 2002 and in all her School Records, the name of her father is furnished. Even in her Marriage Certificate, the name of her mother is indicated as Sumith Saraswathy. Therefore, it was submitted that the writ petitioner is not in possession of any evidence to prove that either she or her parents belong to "Hindu Adi Dravidar" Community, which is classified as Scheduled Caste in the State of Tamil Nadu. It was also stated that the writ petitioner had not produced any document to show that any

other community is classified as Schedule Caste in Andaman and Nicobar



Islands, either under the Constitution (Andaman and Nicobar Islands) Scheduled

Tribes Order, 1999, as amended by the Scheduled Castes and Scheduled Tribes

(Amendment) Act, 1976. Therefore, it was contended in the Review

Application that the claim of the writ petitioner that she belongs to "Hindu Adi

Dravidar" Community, cannot be countenanced. Further, in the Marriage

Certificate, neither the Community of the petitioner's husband nor the

Community to which the writ petitioner or her family belongs to, had been

indicated. Therefore, it was contended that the Community Certificate issued to

the petitioner itself was not genuine and it was obtained by misrepresentation.

According to the Review Applicants, a person can claim herself to be a member

of Hindu Adi Dravidar Community by birth and not by virtue of her marriage.

Above all, it was stated that in the discreet enquiry conducted at the Perambur

and Villivakkam address furnished by the writ petitioner, it came to light that

the husband of the petitioner and his family professes Christianity as their

religion. Moreover, where a person migrates from one State to another, he or

she can claim to have belonged to a Schedule Caste or Schedule Tribe only in

relation to the State to which he or she originally belonged to and not in respect

of the State to which he or she migrated. It is in those circumstances, the

respondents, as Review Applicants, sought for a Review of the Order dated

12.03.2019 passed in WP No. 6255 of 2019.



9. As the Review Application No. 82 of 2019 and the Contempt Petition No. 578 of 2019 involves identical issue for examination, we have taken up the Contempt Petition as well as the Review Application together for disposal. After hearing the counsel for both sides, by the order dated 15.04.2019, we have disposed of the Review Application No.82 of 2019 in W.P.No.6255 of 2019 and Contempt Petition No.578 of 2019 by issuing the below mentioned directions:-

10. We have heard the counsel on both sides and perused the materials placed on record. Though very many contentions have been urged on behalf of both sides, we are of the view that by the order dated 12.03.2019, we have not directed the respondent to issue community certificate in favour of the petitioner by declaring her community as Hindu "Adi Dravidar". The fact remains that already a certificate has been obtained by the petitioner declaring that she belong to Hindu "Adi Dravidar" community and such certificate was issued to her as early as on 24.03.2008. We have only directed the respondent to incorporate the name of the father in the community certificate issued to her on 24.03.2008 instead of the name of her husband. Therefore, already a community certificate has been issued to the petitioner but it is alleged by the respondent that such community certificate has been obtained by the petitioner by misrepresentation. Such a plea cannot be gone into by this Court at the instance of the Review Applicant. In fact, when the writ petition was filed by the petitioner, we have adjourned the hearing in the writ petition thrice to facilitate the respondent to file a counter, but counter affidavit has not been filed by the respondent bringing to the notice of this Court that the community certificate has been allegedly obtained by the petitioner by misrepresentation. Even otherwise, whether the community certificate obtained by the petitioner is genuine or ingenuine, it cannot be gone into by this Court. It is made clear that we have only directed the respondent to re-issue the community certificate to the petitioner



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by incorporating the name of the petitioner's father instead of her husband. We do not find any error apparent in such direction issued by us and therefore, it cannot be contended by the Review Applicant that there is an error apparent on the face of the record warranting review of the order dated 12.03.2019. At the same time, we wish to observe that this order will not preclude the respondent from subjecting the community certificate issued to the petitioner for verification in a manner known to law. We also wish to record that the learned counsel for the petitioner also reiterated that the petitioner is ready and willing to extend her cooperation for any enquiry that may be conducted by the respondent with respect to the genuineness or otherwise of the community certificate issued to her. Therefore, having regard to the above fact, we do not find any reason to review our order dated 12.03.2019 and the Review Application deserves only to be dismissed. The respondents are directed to re-issue Community Certificate to the petitioner by incorporating the name of her father, instead of her husband forthwith. Thereafter, the respondents shall cause an enquiry with respect to the genuineness of such certificate issued to the petitioner and complete the enquiry within a period of two weeks. After conclusion of such an enquiry, the respondents shall intimate the outcome of such enquiry to Union Public Service Commission.

10. It is stated that pursuant to the Order dated 15.04.2019 passed in the Review Application No. 82 of 2019 in W.P.No.6255 of 2019 and Contempt Petition No. 578 of 2019, the writ petitioner was furnished with a Community Certificate, which she produced before the Union Public Service Commission. However, the said Commission refused to accept the Community Certificate on the ground that it was not in the proper format. In those circumstances, the writ petitioner has once again come before this Court with this Contempt Petition



complainning non-compliance of the Order dated 15.04.2019 passed in Review Application No. 82 of 2019 in W.P.No.6255 of 2019 and Contempt Petition No.578 of 2019.

11. The present Contempt Petition is filed on the ground that, in the guise of complying with the order dated 15.04.2019 passed in Review Application No. 82 of 2019 and Contempt Petition No. 578 of 2019, the respondents have issued a Community Certificate in an improper format. By reason of issuance of such a Community Certificate, the petitioner is not in a position to submit it to the Union Public Service Commission, with the result, the said Commission had with-held her selection. According to the petitioner, such an act on the part of the respondents is nothing short of disobedience of the order passed by this Court. Therefore, the present Contempt Petition No.531 of 2020 has been filed.

12. The second respondent has filed a counter affidavit stating that pursuant to the direction issued by this Court on 15.04.2019 in Cont.P.No.578 of 2019 and also in Rev.A.No.82 of 2019 in W.P.No.6255 of 2019, the District Collector directed the Tahsildar, Perambur to re-issue the community certificate to the petitioner by incorporating the name of her father, *inter alia*, directing the first respondent/Tahsildar to produce the original back file relating to the year 2008, during which the Community Certificate has been issued to the writ petitioner. Accordingly, the Tahsildar, Perambur re-issued the Community



Certificate to the petitioner on 30.04.2019 duly incorporating the name of her father and forwarded the original back file to the District Collectorate for perusal of the District Collector. After perusing the original back files, the District Collector referred the case of the petitioner to be placed before the District Level Vigilance Committee for a detailed enquiry. Accordingly, the District Level Vigilance Committee was constituted to verify the genuineness of the Community Certificate issued to the writ petitioner on 20.05.2019. During the enquiry, the writ petitioner submitted family tree. the Community Certificates issued to her blood relatives, her Aadhar Card etc., The committee during the course of enquiry, sought for a detailed local enquiry report from the Deputy Superintendent of Police, SC/ST Vigilance Cell. Accordingly, the Deputy Superintendent of Police submitted a report, vide File No. CN1/SC /ST / DYSP /CVR-29 dated 28.11.2019. On receipt of the same, the District Level Vigilance Committee issued a show cause notice, dated 03.01.2020 for appearance of the petitioner, but she did not turn up. Again, another notice dated 21.01.2020 was also sent to the petitioner, but she did not appear. A final show cause notice dated 14.02.2020 was also sent, calling upon the petitioner to appear for an enquiry on 20.02.2020, but the petitioner did not appear. In such circumstances, the District Level Vigilance Committee, upon perusal of the material documents, including the report of the Deputy Superintendent of



Police, Vigilance Cell, concluded that the petitioner does not belong to Hindu Adi Dravidar community. The Committee therefore cancelled the Community Certificate already issued to the petitioner as not genuine. By highlighting the aforesaid facts, the respondents contended that there is no disobedience, much less wilful disobedience on their part in complying with the order passed by this Court. Therefore, the respondents prayed for dismissal of the Contempt Petition.

13. The learned counsel for the petitioners vehemently contended that pursuant to the directions issued by this Court on 15.04.2019, the first respondent has issued a Community Certificate in an inappropriate format, which led to the petitioner's prospects of getting selected by the Union Public Service Commission, lost. This according to the petitioner, is an act of contempt, for which the respondents have to be prosecuted by initiating contempt proceedings.

14. Countering the said submissions, Mrs.Narmada Sampath, learned Additional Advocate General contended that, from the beginning, the respondents have disputed the genuineness of the Community Certificate obtained by the petitioner. Now, it is also confirmed by the order passed by the competent District Level Vigilance Committee. In any event, the Community Certificate had been issued to the petitioner in the prescribed format. In such circumstances, the question of non-compliance of the order dated 15.04.2019



does not arise. She therefore prayed for dismissal of the contempt petition.

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15. Keeping in mind the submissions made by the learned counsel for both sides, we have gone through the entire materials placed on record. This Court, while disposing of Review Application No. 82 of 2019 in W.P.No.6255 of 2019 and Contempt Petition No.578 of 2019 on 15.04.2019, directed the respondents to re-issue the community certificate to the petitioner by incorporating the name of her father. According to the respondents, in adherence to such direction issued by this Court, they have issued the Community Certificate to the petitioner. However, the petitioner contended that the Community Certificate issued to her is not in the prescribed format, which led to the Union Public Service Commission withholding her selection. This according to the petitioner is a breach of the direction of the order passed by this Court and therefore, the respondents have to be prosecuted by initiating contempt proceedings.

16. However, the learned Additional Advocate General, relying on the subsequent developments in this case, contended that the Community Certificate produced by the petitioner itself had been declared as not genuine by the competent District Level Vigilance Committee. In the light of the above, the present contempt proceedings need not be adjudicated on merits. It is also



submitted that, as directed by this Court, the respondents have issued a Community Certificate to the petitioner and therefore also, the Contempt Petition has to be dismissed.

17. In and by the above said order dated 15.04.2019, we have not only directed the respondents to issue Community Certificate to the petitioner by incorporating the name of her father, but also directed to conduct such enquiry as are necessary to ascertain the genuineness of the Community Certificate obtained by the petitioner. In other words, this Court gave liberty to the respondents to go into the validity of the Community Certificate already issued to the petitioner. Accordingly, an enquiry was conducted by the competent District Level Vigilance Committee constituted by the second respondent. The Committee, after conducting an enquiry, has passed an order dated 23.03.2020 holding that the Community Certificate already issued to the petitioner is not genuine. Consequently, the committee has also cancelled the community certificate issued to the petitioner. Therefore, it is open to the petitioner to assail the order dated 23.03.2020 passed by the District Level Vigilance Committee, Chennai, in the manner known to law. When the competent authority has passed an order as mentioned above, it is not proper to proceed further with the present Contempt Petition.



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18. The learned counsel for the petitioner vehemently contended that pursuant to the order dated 15.04.2019 passed by this Court, the first respondent issued a Community Certificate to the petitioner, but it was not in proper format. Therefore, it is contended that the issuance of the Community Certificate in an improper manner itself would be sufficient to initiate contempt proceedings against the respondents. We are not inclined to accept such a submission of the learned counsel for the petitioner. Whether the Community Certificate was issued in the prescribed format or in an improper manner, cannot be examined by us in this contempt proceedings. This is more so that the Community Certificate already issued to the petitioner itself, was held to be not genuine by the District Level Vigilance Committee. While so, we are of the opinion that the issuance of the Community Certificate in an improper format, or in the prescribed format, cannot be attached much significance for consideration in the present contempt proceedings.

19. For all the reasons mentioned above, we decline to proceed with this contempt proceedings as against the respondents, inasmuch as the order passed by us on 15.04.2019 in Review Application No.82 of 2019 in W.P.No.6255 of 2019 and Contempt Petition No.578 of 2019, had been duly complied with. The



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present Contempt Petition is therefore dismissed. No costs. Consequently,

connected Sub-Application No. 267 of 2020 is closed.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

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//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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Gs/15/07/2021

To

1. The Tahsildar
Purasawalkam-Perambur Taluk
Chennai - 600 011

2. The District Collector
Office at Collectorate
Chennai