



W.P.No.18250 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Delivered On: 07.12.2021

Reserved On: 25.11.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.18250 of 2021

And

W.M.P.No.19488 of 2021

B.Balambal

... Petitioner

Vs.

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

2.The Deputy Collector (Revenue) – Cum -
Sub Divisional Magistrate,
Karaikal.

3.The Tahsildhar,
Karaikal Taluk,
Karaikal.

4.The Tahsildhar,
Thirunallar Taluk,
Thirunallar.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorarified Mandamus to call for the records of the



W.P.No.18250 of 2021

2nd respondent herein in No.13509/DCR/SDM/B3/KKL/2021/227 dated 09.06.2021 quash the same and direct the 2nd and 3rd respondent herein to issue Residence Certificate to the petitioner.

For Petitioner : Mr.S.V.Karthikeyan

For Respondents : Ms.N.Mala
Government Pleader (P)

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in No.13509/DCR/SDM/B3/KKL/2021/227 dated 09.06.2021, to quash the same and to direct the 2nd and 3rd respondents to issue Residence Certificate to the petitioner.

2.The case of the petitioner is that the petitioner was born in Karaikal and completed her education in Karaikal. Thereafter she applied for the post of Guest Balasevika in the Education Department of Puducherry and was shortlisted for selection to the said post. She was directed to produce a Residence Certificate for the current period and hence she applied to the third respondent for issuance of Residence Certificate. Thereafter based on the advise of the staff of the third respondent, the petitioner applied for Residence Certificate

2/11



W.P.No.18250 of 2021

with the fourth respondent. After enquiry, the fourth respondent passed an order dated 19.01.2021 refusing to issue Residence Certificate and the third respondent also vide order dated 01.02.2021 rejected the claim of the petitioner on the ground that her right of residence ceases once she shift her residence to Tamil Nadu after marriage. However, though the petitioner performed marriage with one Venkatesan, a resident of Samayapuram in Trichy District of Tamilnadu, immediately after marriage, her husband's name was removed from his family card in Tamil Nadu and was added in the petitioner's family card in Karaikal and the petitioner's husband was employed in Oman and after his return from Oman, he was continuously staying with the petitioner in Karaikal. The petitioner submitted all the relevant documents to prove her continuous residence at Karaikal, however, the said facts were not properly considered by the respondents 3 and 4 and the same was confirmed by the second respondent, which is non est in law.

3.The learned appearing for the petitioner would submit that admittedly, the petitioner is native/ resident of Karaikal. The petitioner has two houses one situated in Thirunallar and another situated in Karaikal and admittedly the petitioner is a resident of



W.P.No.18250 of 2021

Karaikal along with her parents. She completed her studies in Karaikal and her marriage was performed in the year 2015 and even thereafter, she continuously resided with her parents since her husband was working in Oman. Immediately after marriage, the name of the petitioner's husband was deleted from his family card in Samayapuram, Tamil Nadu and was added in the petitioner's family card in Karaikal and that itself is sufficient to prove that the petitioner is a resident of Karaikal and no document was held against the petitioner as if she is a resident of Samayapuram in Tamil Nadu. In the absence of any proof to show that the petitioner is resident of Tamil Nadu, rejecting her request for Residence Certificate in order to get a job in the Education Department of Puducherry is non est in law.

4.The learned Government Pleader (Pondicherry) appearing for the respondents would submit that as per Circular of the Revenue Department No.6260/C2/Rev/ 2003 dated 06.10.2003, actual physical residence of the petitioner is essential and mere ration card is not the sole criteria for issuance of Residence Certificate. Though the petitioner was born and brought up in Karaikal, after marriage, she shifted her residence to Samayapuram in Tamilnadu and would



W.P.No.18250 of 2021

further submit that the petitioner has not approached this Court with clean hands since the petitioner made two applications seeking Residence Certificate one in Karaikal and another in Thirunallar and hence the impugned order was rightly passed and it needs no interference.

5.The facts in the present case is not in dispute. Admittedly the petitioner and her parents are residents of Karaikal. The petitioner got married in the year 2015 with one Venkatesan who is a resident of Samayapuram. The respondents claim that after marriage, the petitioner shifted her residence to Samayapuram and citing the Circular of the Revenue Department No.6260/C2/Rev/ 2003 dated 06.10.2003, they rejected her claim on the ground that actual and physical residence is essential and mere production of ration card, EPIC card is not sufficient.

6.For better appreciation, the relevant portion of the Circular of the Revenue Department No.6260/C2/Rev/ 2003 dated 06.10.2003 is extracted hereunder:

***"(1) DETERMINATION OF THE
"RESIDENTS" IN THE UNION TERRITORY
OF PONDICHERRY.***



W.P.No.18250 of 2021

The following shall be the criteria prescribed for determining persons as Residents of this Union Territory:-

(i)The candidate or whose parent(either Mother or Father or Both) or Guardian (in the case of Children who have lost both the parents) has been residing continuously in this Union Territory for atleast five years preceding the date of application.

.....

.....

.

(2)Further the certificate-issuing authorities are instructed to strictly adhere to the following instructions in deciding the resident status of the applicants, namely:-

(i)While computing the period of actual residence, temporary absence for education, job etc., shall be ignored. In cases where the parents have gone abroad for the purpose of employment, then the residence of Grand parents in the U.T. of Pondicherry may also be taken for the issue of Residence Certificate for



W.P.No.18250 of 2021

study purpose only to their Grand Children in exceptional and genuine cases, where the children reside with grand parents and are studying in recognized educational institutions in the U.T. Of Pondicherry.

(ii)The actual and physical residence of the applicant/parent/ Guardian is essential. But, mere possession of evidences like Ration Card, EPIC Card or previous certificate etc. are not the sole criteria for issuance of the Residence Certificate. At the same time, such evidences should not be totally ignored. After detailed enquiry, if it is found that such evidences are false or obtained on false representation of facts, immediate action has to be taken by the certificate-issuing authorities (Tahsildar/ Dy.Tahsildar) to inform the appropriate authorities to cancel them. It shall also be brought to the knowledge of the concerned Deputy Collector (Revenue)/ Joint Secretary (Revenue) for follow up action.

(3)For getting Nativity/Residence certificate, the application has to be



W.P.No.18250 of 2021

submitted by the applicant to the concerned Tahsildar of Taluk Office or Dy.Tahsildar of Sub-Taluk Office and it will be forwarded to the Village Administrative Officer of the concerned revenue village through the Revenue Inspector for discreet enquiry and report. If the applicant or parent or guardian resides in the concerned revenue village, as per the criteria mentioned in pre-paras, the Village Administrative Officer shall make a report and it shall be verified by the Revenue Inspector. After considering the reports of the VAO and RI, the Dy.Tahsildar or Tahsildar of concerned Sub-Taluk or Taluk may issue the certificate to the applicant."

7.In the present case, admittedly the marriage of the petitioner was performed with her husband in the year 2015 and no document was produced to show the residence of the petitioner along with her husband in Samayapuram. The petitioner produced document to establish that after marriage, the name of the petitioner's husband was deleted from his family card in Samayapuram, Tamil Nadu and was added in the petitioner's family card in Karaikal, which is evident



W.P.No.18250 of 2021

from the records, i.e., copy of the certificate for deletion of her husband's name in TSO Lalgudi in register serial no.2630 of 2016 and subsequently her husband's name was included in the petitioner's family card in Karaikal, which is evident to establish that the petitioner has been continuously residing in Karaikal along with her husband. Further, copy of the petitioner's husband's passport would show that he was employed in Oman from 2015 to 2018 and the immigration certificate also appear in the passport.

8.In view of the above, this Court has no hesitation to hold that the petitioner is a resident of Karaikal. Merely applying for Residence Certificate before the Tahsildar, Karaikal and Tahsildar, Thirunallar is not illegal since Karaikal and Thirunallar belong to the Union Territory of Pondicherry. This Court directs the third respondent namely, The Tahsildar, Karaikal Taluk, Karaikal, to issue Residence Certificate to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

9.This writ petition is accordingly allowed. No costs. Consequently, the connected miscellaneous petition is closed.



W.P.No.18250 of 2021

07.12.2021

pri
Speaking Order/ Non Speaking Order
Index: Yes/ No Internet: Yes/ No

To

- 1.The Secretary to Government of Puducherry,
Department of Revenue and Disaster Management,
Puducherry.
- 2.The Deputy Collector (Revenue) – Cum -
Sub Divisional Magistrate,
Karaikal.
- 3.The Tahsildhar,
Karaikal Taluk,
Karaikal.
- 4.The Tahsildhar,
Thirunallar Taluk,
Thirunallar.



WEB COPY



W.P.No.18250 of 2021

M.DHANDAPANI,J.
pri

**Pre-delivery Order in
W.P.No.18250 of 2021
And
W.M.P.No.19488 of 2021**

07.12.2021