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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-12-2021

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.8356 of 2016

And

WMP No.7410 of 2016

J.Sunil

..Petitioner

vs.

1. The Inspector General of Police,
Puducherry Police Department,
Head Quarters,
Puducherry.

2. The Tahsildar,
Villianur Taluk Office,
Villianur,
Puducherry.

..Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the second respondent in his proceedings No.201/TOV/A2/Certificates/2015-16 dated 12.01.2016 and quash the same as illegal and consequently direct the second respondent to issue Residence/ Nativity Certificate and Nationality Certificate to the petitioner within the time frame fixed by this Court and further direct the first respondent to appoint the petitioner in the post of Home Guard.

For Petitioner : Mr.L.Chandrakumar for
Mr.K.Sasindran

For Respondents : Mr.J.Kumaran,
Additional Government Pleader
(Puducherry)



O R D E R

The proceedings of the second respondent-Tahsildar dated 12.01.2016 is sought to be quashed in the present writ petition and a direction is also sought for to issue Residence/Nativity Certificate and Nationality Certificate to the petitioner.

2. The petitioner belongs to Muslim Community and falls under Most Backward Class. The petitioner has completed SSLC and enrolled his name in the Puducherry Employment Exchange. A Notification was issued in the year 2015, inviting applications for recruitment to the post of Home Guard in Puducherry Police Department and the petitioner submitted an application.

3. The petitioner is bound to submit Residence Certificate for the purpose of securing appointment. Thus, he has submitted an application to the second respondent for issuance of Residence Certificate. However, the said application of the petitioner was rejected in the impugned order dated 12.01.2016. Thus, the petitioner is constrained to move the present writ petition.

4. The petitioner states that he furnished 9 documents to establish that he is the resident of Villianur and therefore, he is entitled for the Residence Certificate.

5. The learned counsel for the petitioner reiterated that the petitioner submitted his Birth Certificate, School Certificate, Electoral Photo Identity Card, Ration Card, Aadhar Card, Community Certificate and earlier Residence Certificate etc. In spite of that, the application of the petitioner was rejected by the second respondent.

6. Earlier, the petitioner filed WP No.39701 of 2015 and this Court passed an order on 17.12.2015, directing the second respondent to pass appropriate orders on the application submitted by the petitioner, within a period of one week from the date of receipt of that order. Accordingly, an enquiry was conducted on 07.01.2016 at 04.00 P.M., and the petitioner also attended the enquiry conducted by the second respondent and filed additional documentary evidences.

7. Contrarily, the first respondent has relied upon the documents collected by the Village Administrative Officer and rejected the application. When the Birth Certificate and other required Certificates are produced, the Authorities Competent ought to have considered the case of the petitioner for the purpose of grant of Residence Certificate. The



petitioner was born and brought up at Puducherry and completed his School Education and was earlier issued with the Residence Certificate. Thus there is no reason whatsoever to reject the application for grant of Residence Certificate.

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8. The learned counsel for the petitioner relied on the judgment of this Court dated 29.06.2012 passed in WP No.10905 of 2012, wherein this Court allowed the writ petition, directing the respondents to pass fresh orders in the light of the documents produced by the petitioner in that writ petition.

9. In another judgment of this Court dated 21.09.2020 passed in WP No.12354 of 2016 also, this Court considered the case of the petitioner therein and directed the respondents to issue the Nativity Certificate. Relying on these judgments, the learned counsel for the petitioner reiterated that the documents furnished by the petitioner also to be considered in entirety and the Residence Certificate is to be issued in favour of the petitioner.

10. The learned Additional Government Pleader (Puducherry) objected the said contentions of the petitioner by stating that in the case of the petitioner, no doubt the Authorities have received the documents from the petitioner and all those documents were considered by the Competent Authorities. There are candidates, who all are possessing Ration Cards, Voter/Electoral Identity Cards in two States. Therefore, the Puducherry Government has taken a decision that the Residence Certificate shall be issued to the candidates ordinarily residing for five years continuously for the purpose issuing the Residence Certificate.

11. In this context, the Authorities have to conduct an enquiry before issuing the Residence Certificate and there are many number of bogus Certificates are being produced only for the purpose of getting public appointments in the Government of Puducherry. To avoid duplications and in order to provide appointments only to the genuine residents of Puducherry, the Government of Puducherry issued guidelines and instructions, so as to ensure that the Residence Certificates are issued only to persons, who all are residing for about five years ordinarily within the Union Territory of Puducherry. This being the guidelines and instructions issued by the Government of Puducherry, the case of the petitioner is to be considered with reference to the Rules in force.

12. Pursuant to the application submitted by the petitioner, the Village Administrative Officer of Kunichempet Revenue Village, conducted an enquiry The Village Administrative Officer collected some documents to establish that the name of



the petitioner as well as his family members are available in the Electoral Voters List of Vanur Assembly Constituency within the State of Tamil Nadu. There are some other documents available to establish that the family members of the petitioner are having similar documents in the State of Tamil Nadu also.

13. In the context of the guidelines issued by the Puducherry Government, the application submitted by the petitioner before the Competent Authority as well as the deliberation made by the Authorities are to be considered. The findings of the second respondent reveals that the Village Administrative Officer of Villianur reported that on field enquiry the house was constructed on a plot issued under Land Grant Rules, 1975 and presently occupied by one Thiru Mohammed Basha, S/o.Ibrahim Shah. In support of his claim the said Thiru.Mohammed Basha issued a letter and annexed the photo copy of Aadhaar Card, Family Ration Card, EPIC of Thiru Mohammed Basha and LGR plot issued vide No.2240/2000 by the Directorate of Survey and Land Records, Puducherry in R.S.No.200/11 of Villianur Revenue Village. Therefore, on enquiry itself the Village Administrative of Villianur orally conveyed the application could not be entertained. Further, Thiru Mohammed Basha was residing along with his family in the address No.64, Perambai Road, for many years not the applicant or his family.

14. On perusal of the records and on field enquiry, the house located at No.29, First Cross, A.R.R.Nagar, Sulthanpet is owned by one Thiru.Nazeer Ahamed. The house was presently occupied by a tenant namely Tmt.M.Faritha Begam, W/o.Mohammed Sherif and her family members. The electricity consumption demand bill for the month of June 2015 was issued in the name Thiru Nazeer Ahamed the owner of the house and the LPG connection bill issued by HP Gas Agencies was in the name of the present occupier Thiru Mohammed Sherif and the staement filed by the present occupier Tmt.Faritha Begam, W/o.Mohammed Sherif also confirms the petitioner Thiru Sunil and his family was residing in the said address. On further enquiry conducted it was found that the petitioner and his family members are residing in their own RCC building at Perambai Road, Perambai, Vanur Taluk, Villupuram District.

15. The Village Administrative Officer of Perambai Revenue Village, Vanur Taluk, Villupuram, Tamil Nadu issued a Certificate dated 08.01.2016 in which it was stated that the family of the petitioner Thiru Sunil was residing in a pucca RCC building situated in Re-Survey Number 167/13 of Perambai Revenue Village having an extent of 720 Sq. feet (Plot No.41) at Perambai Road, Perambai for more than 5 years and it is registered in the name of the petitioner's mother Tmt.Loganayaki @ Anis Fathima. The Encumbrance Certificate issued at Sub



Registrar Office, Vanur also mentioned the said Re-Survey Number in the name of Tmt.Loganayaki @ Anis Fathima. Therefore, the petitioner Thiru Sunil and his family were residing in Perambai Revenue Village of Tamil Nadu not in Puducherry Region. The applicant and his family obtained Certificates by furnishing false information as they were not ordinarily residing in Puducherry Region.

16. The Puducherry Government issued guidelines in clear terms that the Competent Authorities should strictly adhere to the instructions while deciding the residence of the applicants. The instructions read as under:-

"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, 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/Deputy 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."

17. The field enquiry conducted by the Authorities Competent reveals that the petitioner is not ordinarily residing within the territory of Puducherry. The factual findings made by the Competent Authorities after conducting the field inspection with reference to documents is to be relied upon and therefore, the petitioner could not able to establish that he was ordinarily residing within the territorial jurisdiction of the Union Territory of Puducherry for the purpose of getting a Residence Certificate to secure employment in the Government of Puducherry.

18. This Court do not find any infirmity in respect of the procedures followed by the respondents and further the decision taken as it was taken after conducting the field inspection and providing an opportunity to the petitioner.



19. Accordingly, the petitioner is not entitled for the relief, as such, sought for in the present writ petition and consequently, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Inspector General of Police,
Puducherry Police Department,
Head Quarters,
Puducherry.

2. The Tahsildar,
Villianur Taluk Office,
Villianur,
Puducherry.

+1cc to Mr.K.Sasindran, Advocate SR. No.65743

+1cc to Government Pleader SR. No.65688

WP No. 8356 of 2016

NRL (CO)

PR (23/12/2021)