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W.P.(MD) No.1037 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.(MD) No.1037 of 2016

and

W.M.P(MD)No.894 of 2016

Dr.P.Muneeswari

... Petitioner

Vs

1.The Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat,
Chennai.

2.The District Collector,
Ramanathapuram District,
Ramanathapuram.

3.The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.

4.The Tahsildar,
Kamudhi Taluk,
Ramanathapuram District.

... Respondents

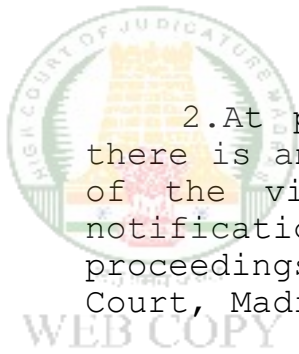
PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorari to call for the records pertaining to the impugned order, dated 13.11.2013 passed by the second respondent in his proceedings in Na.Ka.No.3/27556/2011 and quash the same.

For Petitioner : Mr.C.Mayil Vahana Rajendran
For Respondents : Mr.P.Thilak Kumar
Additional Government Pleader

ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

Though the respondents seek to assert that the matter would be governed by a 2015 notification that provides for an appeal, it is evident that the present matter of cancellation of the community certificate issued to the petitioner is covered by GO(2D)No.108 dated September 12, 2007.



2.At paragraph 3 of the notification, it is provided that if there is any cancellation of any community certificate at the behest of the vigilance or the scrutiny committee created under such notification, then the appropriate remedy would be to initiate proceedings under Article 226 of the Constitution before the High Court, Madras.

3.In such view of the matter, the assertion by the official respondents cannot be accepted.

4.There is no doubt that the petitioner in this case was granted a community certificate as belonging to the Hindu Pallan community. There is even no dispute that the petitioner was born to Hindu Pallan parents. However, merely because the petitioner married a Christian and the petitioner's children have been recognised as members of the community to which the petitioner's husband belongs, the community certificate issued in favour of the petitioner has been cancelled.

5.In the counter-affidavit filed by the respondents, some specious excuses have been proffered which cannot be accepted. According to such affidavit, officials visited the clinic of the petitioner, since the petitioner is a doctor. Such officials apparently found a cross hanging on the wall and on the basis of such cross, the officials conjectured that the petitioner had converted to Christianity and was, thus, disqualified from retaining the Hindu Pallan community certificate. There is no suggestion in the affidavit that the petitioner has abandoned her faith or that the petitioner has embraced Christianity. It is equally possible that the petitioner, as a part of a family, may accompany the petitioner's husband and children for Sunday matins but the mere fact that a person goes to Church does not mean that such person has altogether abandoned the original faith to which such person was born.

6.The acts and conduct of the respondents portray a degree of narrow-mindedness that the Constitution does not encourage. Nothing may be presumed upon a member of a particular community respecting another community or another religion and, indeed, that is the constitutional mandate and not otherwise.

7.Since the action taken by the respondent authorities appears to be arbitrary and based on surmises and conjectures without any material fact in support thereof, the same is set aside and the impugned order dated November 13, 2013 passed by the second respondent in Na.Ka.No.3/27556/2011 is quashed and the certificate originally issued in favour of the petitioner is directed to be restored with immediate effect.

8.It would do well for the members of the scrutiny committee to <https://hcmisearch.gov.in/services/app> with a broader mind than is evident in the



present case. W.P.(MD).No.1037 of 2016 is allowed as above.

W.M.P(MD).No.894 of 2016 is closed. There will be no order as to costs.

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Sd/-

Assistant Registrar (P & A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PM/PJL

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1.The Secretary to Government,
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Chennai.

2.The District Collector,
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3.The Revenue Divisional Officer,
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Ramanathapuram District.

4.The Tahsildar,
Kamudhi Taluk,
Ramanathapuram District.

+1 CC to M/s.SPL.GP (SR-30500[F] dated 28/09/2021)

W.P. (MD) No.1037 of 2016

and

W.M.P (MD) No.894 of 2016

27.09.2021

NSN(CO)/RS (08.10.2021) 3P 6C