



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.2378 of 2022

E.Kumar
General Secretary,
Adi Palangudiyinar Nala Sangam

... Petitioner

-vs-

1. The Principal Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai 600 009.
2. The Director of Tribal Welfare Department,
Chepauk, Chennai 600 005.
3. The District Collector,
Salem.
4. The Revenue Divisional Officer,
Attur, Salem District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, directing the first respondent to pass final orders with regard to issuance of Malakkuravan/Malaikkuravan Community Certificate to the Schedule Tribe members, on the basis of anthropological and ethonological report submitted by Director of Tribal Research Centre, Ooty, dated 10.10.2018, vide Rc.No.3/2018/A2 within a stipulated time as fixed by this Court and direct the fourth respondent to issue a community certificate in pursuance of the said report to the Schedule Tribe members.

For Petitioner : Mr.L.Chandrakumar
for Mr.N.Naganathan

For Respondents : Mr.V.Manoharan, AGP



ORDER

(Order of the Court was made by T.RAJA, J.)

The petitioner, who is the General Secretary of Adi Palangudiyinar Nala Sangam, has come up with this petition for issuance of Malakkuravan/Malaikkuravan Community Certificate to the Schedule Tribe members, on the basis of the anthropological and ethonological report submitted by the Director of Tribal Research Centre, Ooty, dated 10.10.2018, vide Rc.No.3/2018/A2 within a stipulated time as fixed by this Court.

2. Mr.L.Chandrakumar, learned counsel for the petitioner would submit that Malakkuravan Tribes are residing in Kanyakumari District and Shencottah Taluk of Tirunelveli District for many decades. This sect of Malakkuravan Tribe was enlisted in Sl.No.5 as item 6 of the then Madras State, vide SCs and STs Lists (Modification) Order 1956 dated 29.10.1956, with some area restrictions. The said restrictions had also been removed and Malakkuravan/Malaikkuravan community is enlisted in Item No.23 in the list of STs of Tamil Nadu, vide SCs and STs order (Amendment) Act, dated 18.09.1976, published on 20.09.1976. Subsequently, the Central Government clarified that the said Act shall come into force from 27.07.1977, vide notification No.BC-12016/34/76-SCT-V, dated 27.07.1977. He further submitted that the second respondent/Director of Tribal Welfare Department, Chepauk, Chennai and the Ex-Officio Deputy Commission for Schedule Castes and Schedule Tribes, Govt. of India, Headquarters, Madras, had addressed letter, dated 30.01.1982, to the Government of Tamil Nadu Social Welfare Department to issue Malaikkuravan Community Certificate to the eligible persons belonging to that Community. Subsequently, Additional Secretary to Government Social Welfare Department, has instructed all the Collectors to issue Community Certificates to the persons belonging to the Malaikkuravan Community. In spite of series of communications mentioned above, till date, no such Community Certificate has been issued to the members of the petitioner/ Association. As a result, the members of the petitioner/Association are not able to get their Community Certificates and benefits from the Government. Further, they are handicapped in pursuing higher education, getting employment opportunities and also getting benefits under various welfare schemes meant for the affected Tribal people. Therefore, the petitioner has been advised to come before this Court.

3. Mr.V.Manoharan, learned Additional Government Pleader appearing for the respondents raised serious objections to the prayer of the petitioner stating that the members of the petitioner/Association are interested to get ST certificate, alleging that they belong to Malaikkuravan Community without any



individual application. It is for them to take make out individual application to the competent authority, viz., fourth respondent herein. If such applications are made, the same will be considered on merits and in accordance with law. He further added that the request of the members of the petitioner/Association is under consideration of the Government.

4. In reply, the learned counsel for the petitioner invited the attention of this Court to the report of the Director, Tribal Research Centre in Rc.No.3/2018/A2, dated 10.10.2018 sent to the Additional Chief Secretary to Government, Chennai and submitted that based on the above report, the fourth respondent may issue Community Certificate. The relevant portion of the said report is as follows:

"CONCLUSION:

In Tamil Nadu, the Malakkuravan community is identified as Scheduled Tribe and included in the list of Schedule Tribes of Tamil Nadu (Serial No.23). The same spelling Malakkuravan community is also included as a Schedule Tribe in the list of Scheduled Tribe of Kerala (Serial No.23). As Tamil People never use the word "MALA", but equivalent word, they use is MALAI. So Malakkurvan has become Malaikkuravan in Tamil Nadu, but in Kerala, they continued to be Mala and Malakkuravan. From the available ethnographic data of Malakkuravan/Malaikuravan Community and from the filed observations, we come to the conclusion that the people studied in the Attur Revenue Divison- Attur, Pethanaickenpalayam and Gangavalli belongs to Malakkuravan/Malaikuravan Community.

5. Considering the facts and circumstances of the case and taking into consideration of the above report, this Court is of the view that the submission of the learned Additional Government Pleader appearing for the respondents that they cannot indiscriminately call all the people and issue Community Certificate, i.e., whether they belong to Malaikkuravan Community or not, has some force. Although in the report, it is stated that the people studied in the Attur Revenue Divison, Attur, Pethanaickenpalayam and Gangavalli belong to Malakkuravan/ Malaikuravan Community, it is for the individual members belonging to the petitioner/Association to approach the fourth respondent with specific application with supporting documents, viz, Ration Card, Voter ID Card, Aadhaar Card and School Certificates or any other proof to show that they belong to the said area to get the Malaikkuravan Community.

6. In view of the above, this Court directs the members of the petitioner/Association to approach the fourth respondent with individual application along with relevant documents as



stated above, to prove their residency and the Community, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said application, the fourth respondent shall consider the same on the basis of the said report of the Director of Tribal Research Centre, Ooty, dated 10.10.2018 and pass appropriate orders on merits and in accordance with law, within a period of three months.

7. With the above directions, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS III)

/True Copy//

Sub Assistant Registrar

pvs

To

1. The Principal Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai 600 009.
2. The Director of Tribal Welfare Department,
Chepauk, Chennai 600 005.
3. The District Collector,
Salem.
4. The Revenue Divisional Officer,
Attur, Salem District.

Copy to

The Director,
Tribal Research Centre, Ooty.

+2ccs to Mr.N.Naganathan, Advocate, S.R.No.33977

+1cc to the Government Pleader, S.R.No.34513

W.P.No.2378 of 2022

EV[co]
NSK/05/07/2022