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W.P.No.9200



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.09.2022

DELIVERED ON : 17.10.2022

CORAM:

**THE HON'BLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HON'BLE MR.JUSTICE K. KUMARESH BABU**

**W.P.No.9200 of 2021
and W.M.P.Nos.9735, 9738 and 9740 of 2021**

- 1.K.Navamani
- 2.Minor N.Sugavanam
- 3.Minor N.Prakash

... Petitioners

*Both the minors are represented
by their father/next friend K.Navamani*

vs.

- 1.The District Collector,
Collectorate,
Erode – 638 011,
Erode District

- 2.The Revenue Divisional Officer,
Erode – 638 011
Erode District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order made in Na.Ka.28186/2016/EKa, dated 18.03.2021 passed by the 1st respondent confirming the order in Na.Ka.4245/2014/A4 dated 23.10.2017 passed by the 2nd respondent, quash the same and consequently



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direct the respondents to grant community certificates to the petitioners 2 and 3 as Hindu Kattunayakan by considering their application dated 22.09.2009.

For Petitioners	:	Mr.Manoharan
For Respondents	:	Mr.Vadivelu Deenadayalan Additional Government Pleader

ORDER

(Order of the court was delivered by K.Kumaresh Babu, J.)

The instant Writ Petition has been filed challenging the order of the first respondent confirming the order of the second respondent rejecting the request of the petitioners to grant community certificate to the second and third petitioners and also directing initiation of fresh proceedings to cancel the community certificate issued to the first petitioner.

2.Heard Mr.Manoharan, learned counsel for the petitioners and Mr.Vadivelu Deenadayalan, learned Additional Government Pleader appearing for the respondents.

3.The case of the petitioners is that their family had migrated to Erode from Manjinaickenpatti Village, Theni District. On 10.05.1983, the Tahsildar had granted a temporary certificate to the first petitioner and when he had made an application for grant of a permanent community certificate, he was asked to



approach the Authorities in Theni District. Hence, the first petitioner had instituted a suit in O.S.No.1046 of 1994 on the file of the First Additional District Munsif Court, Erode, seeking for a declaration that he belong to Hindu Kattunayakan community and also for a mandatory injunction for issuance of a permanent community certificate. On 30.08.1996, the said suit was decreed as prayed for. The Appeal Suit in A.S.No.58 of 1997 was filed by the defendants, came to be dismissed on 18.02.1997 by a Judgment and Decree passed by the Additional Sub Court, Erode. As against the same, a Second Appeal was preferred in S.A.No.1101 of 1998 which also came to be dismissed by this Court on 12.07.2000 and the same has also been reported in **2000 (3) CTC 273**.

4. Thereafter, the first petitioner was issued with a community certificate denoting him as Hindu Kattunayakan community which is a Schedule Tribe community. The second and third petitioners are his sons and therefore, he made an application seeking issuance of a community certificate to them, the same was also recommended by the Revenue Officials. The second respondent herein pursuant to the application made by the first petitioner on behalf of the second and third petitioners had called upon the first petitioner to substantiate his claim for the grant of the community certificate. On 09.09.2016, the second



respondent had passed an order stating that the claim for grant of community certificate could be considered after the recommendation of the District Scrutiny Committee is obtained. Hence, the second and third petitioners represented by their father had filed a Writ Petition in W.P.No.22528 of 2017, seeking for a direction for issuance of a community certificate. This Court by order dated 23.08.2017 had directed the second respondent herein to pass appropriate orders within a period of two weeks. On 23.10.2017, the second respondent had passed an order rejecting the claim made by the second and third petitioners on the ground that during the enquiry, it has been found that their his relatives have obtained community certificate as belonging to Kavara Naidu and hence were not entitled for a certificate that they belong to Hindu Kattunayakan Community.

5. Being aggrieved against the same, they have preferred an appeal before the District Collector, however, an order of rejection was passed by the District Adi Dravidar Welfare Officer, Erode rejecting the request of the second and third petitioners and inter alia calling upon the first petitioner to show cause as to why his certificate should not be cancelled. Being aggrieved against the same, the petitioners herein had approached this Court in W.P.No.16872 of 2020 in which, this Court by order dated 02.12.2020 had set aside the order passed by



the District Adi Dravidar Welfare Officer, Erode on the ground that it was the first respondent herein who ought to have considered the appeal, he could not have delegated the function to the District Adi Dravidar Welfare Officer, Erode and directed the first respondent to consider the appeal after affording an opportunity of personal hearing to the petitioners and dispose of the same in accordance with law within a period of ten weeks from the date of receipt of a copy of the said order.

6. Thereafter, the first respondent had called upon the petitioners to appear for the enquiry on 01.02.2021 on which date, the petitioners have submitted various documents for the grant of community certificate. The first respondent herein by its order dated March 2021 had rejected the appeal filed by the petitioners confirming the order passed by the second respondent. Apart from rejecting the claim, the first respondent had also issued directions to initiate separate proceedings for cancellation of the community certificate issued to the first petitioner.

7. Learned counsel for the petitioners Mr.N.Manoharan would vehemently contend that the respondents while passing the order had ignored the Judgment



and Decree passed by the Civil Court which has been affirmed by this Court declaring that the first petitioner belong to Hindu Kattunayakan community.

The entire proceedings of the respondents herein are based upon a Vigilance Report which had collected the details of various relatives of the petitioners. The list of relatives stated in the impugned orders would also show that many of the petitioners' relatives were issued certificates to the effect that they belonged to Hindu Kattunayakan community. In respect of relatives who have certified as Kavara Naidu, he submitted they were not blood relatives of the petitioners.

8.He further pleaded that the respondents have considered materials which are irrelevant and have ignored the declaration issued in his favour. That apart, by issuing a separate direction for taking appropriate steps to cancel the community certificate issued to the first petitioner, the respondents are trying to set aside a valid decree passed by a Civil Court as affirmed by this Court and they are trying to sit over a Judgment and Decree of this Court. Hence, sought to set aside the order passed by the respondents herein and direct them to issue a community certificate to the second and third petitioners declaring them as Hindu Kattunayakan community. In support of his contention, he placed reliance on the judgment of the Hon'ble Apex Court reported in **2014 (5)**



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9.He contended that when the rights of the parties have been settled by a judicial decision, the same, has been held, could not be disturbed even by a Statutory Enactment. Hence, he contended that the rights that has accrued to the petitioner between the same parties by issuance of a declaratory decree cannot be sought to be unsettled by the Authorities exercising quasi judicial power. He also relied upon various judgments of this Court, to contend that when the parents of the children have been issued with a community certificate, then, it is axiomatic that the children of the said parents will also have to be favoured with the community certificate and such certificate issued to the parent cannot be doubted unless or until set aside or modified by a Higher Authority. According to him, in the present case, the first petitioner's community was declared by a Civil Court and it had also issued a mandatory injunction for issuance of a permanent certificate to the first petitioner which was challenged by the respondents and has been confirmed even by this Court in its Judgment and Decree in S.A.No.1101 of 1998 dated 12.07.2000 that has become final between the parties. When that being so, the respondents cannot deny issuance of a community certificate to the second and third petitioners and therefore, the



orders impugned are liable to be interfered with.

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10.Countering his arguments, Mr.Vadivelu Deenadayalan, learned Additional Government Pleader appearing on behalf of the respondents would submit that the Government in G.O.Ms.No.147 dated 17.03.2016 had prescribed the Revenue Divisional Officer as the Issuing Authority and the District Collector concerned as the Appellate Authority and the Revisional Authority has been notified as the State Level Scrutiny committee pursuant to the order of this Court made in W.P.(MD)No.3708 of 2016. At the outset, he submitted that the Writ Petition would not be maintainable and the petitioner has to only file a revision before the State Level Authority as notified under G.O.Ms.No.147 dated 17.03.2016.

11.He would contend that the respondents after conducting a detailed enquiry have found out that the relatives of the petitioners were given Kavara Naidu certificate and therefore, the claim of the petitioners that they belong to Hindu Kattunayakan community is only to gain benefits of the reservation made to the Schedule Tribe communities. He further contended that even though a declaratory decree was granted by the Civil Court, it is always open to the



Authorities to cross verify the community certificate to sustain the same.

Therefore, he submitted that when the respondents after thorough enquiry have found that the blood relatives of the first petitioner have been given only a community certificate denoting that they are Kavara Naidu which belong to a backward class, the petitioner cannot claim that they belong to Kattunayakan community which is a Schedule Tribe community. If such a certificate is issued to an ineligible persons, it would be detrimental to the persons actually belonging to the Schedule Tribe communities.

12.He further contended that in view of the factual findings arrived at by the respondents, this Court may not interfere with the rejection of the appeals in respect of the second and third petitioners. It is also necessary, in view of the factual findings, that the genuineness of the certificate issued by the Revenue Divisional Officer to the first petitioner will also have to be gone into as ordered by the first respondent. Hence, he prayed this Court to dismiss the above Writ Petition.

13.We have considered the rival submissions advanced by the learned counsel appearing on either side.



14.It is an admitted fact that the first petitioner had been granted a declaratory decree by a Civil Court that the first petitioner belonged to Hindu Kattunayakan community and a mandatory injunction directing the issuance of a certificate as declared. It is also admitted by the parties that the appeal filed by the respondents herein challenging the declaratory decree has been dismissed by the First Appellate Court in A.S.No.58 of 1997 which was also confirmed by this Court in S.A.No.1101 of 1998, the said Judgment and Decree passed by the Court below have become final as the Government had not preferred any appeal thereafter. That being so, the respondents herein cannot now claim that the first petitioner does not belong to Hindu Kattunayakan community and the genuineness of the certificate issued by the Revenue Divisional Officer, Erode in favour of the first petitioner will have to be verified.

15.It is pertinent to note that the said certificate issued to the first petitioner was based upon a Judgment and Decree of a Civil Court which has been confirmed till this Court. If the claim of the respondents that they are entitled to verify the genuineness of the said certificate is permitted, then it would amount to indirectly permitting them to revisit the decree of declaration



granted by this Court i.e. to set aside a declaratory decree issued by a Competent Civil Court by the respondents who act as a quasi judicial authority. We are afraid that we cannot permit a quasi judicial authority to review a declaratory decree granted by a Competent Civil Court. Therefore, a positive direction issued by the District Collector to take appropriate proceedings for cancellation of the certificate issued in favour of the first petitioner is wholly illegal and without jurisdiction. The respondents have no authority whatsoever to verify the genuineness of the certificate which was issued pursuant to a declaratory decree granted by a Civil Court and upheld by this Court.

16. Now coming to the rejection of the appeal filed by the second and third petitioners, it would be pertinent to analyse the judgments relied upon by the petitioner. The various judgments relied upon by the learned counsel for the petitioners would indicate that when the parents have been issued with a community certificate indicating that they belong to a particular community, the minor children cannot be denied of the communal status granted to their parents. As stated supra, the first petitioner has been granted with a community certificate based on a declaratory decree which has become final between the parties, which we have already held, could not be revisited by the respondents.



We hold that the second and third petitioners being the minor children of the first petitioner are also entitled to be issued with a community certificate as that of their father. Therefore, we hold that the rejection order passed by the second respondent is wholly arbitrary and therefore, the order passed by the second respondent and the order passed by the first respondent confirming the same are liable to be set aside.

17. In view of the above findings, we allow the Writ Petition by setting aside the orders of the first respondent dated 18.03.2021 and the order of the second respondent dated 23.10.2017 and direct the second respondent to issue a community certificate to the second and third petitioners based on the community certificate issued to the first petitioner within a period of four weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(R.S.M., J.) (K.B., J.)
17.10.2022

Index: Yes/no
Speaking order: Yes/no
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To

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Collectorate,
Erode – 638 011,
Erode District

2.The Revenue Divisional Officer,
Erode – 638 011
Erode District.



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R.SUBRAMANIAN, J.
AND
K. KUMARESH BABU, J.

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A pre-delivery Order in
W.P.No.9200 of 2021

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