



W.P.No.11956 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.11956 of 2021
and
W.M.P.Nos.12717 and 12718 of 2021

R.Sivakumar

...Petitioner

Vs.

1.The State Level Scrutiny Committee,
Rep by its Chairman,
Adi Dravidar and Tribal Welfare Department,
Fort St. George, Chennai – 600 009.

2.The District Collect,
Salem, Salem District.

3.The Sub-Collector cum Revenue Divisional Officer,
Revenue Divisional Office, Mettur Dam,
Salem District – 636 401.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus, calling for the records relating to proceeding No.21530/CV-5/2018-6 dated 01.04.2021



W.P.No.11956 of 2021

passed by first respondent, quash the same and consequently direct the third respondent to issue community certificate to the petitioner's children stating that they belong to Kurumans (ST) Community.

For Petitioner : Mr.M.Elango

For Respondents : Mrs.C.Sangamithirai,
Special Government Pleader

ORDER

(Order of the Court was made by **R.SUBRAMANIAN, J.**)

Challenging the order of the State Level Scrutiny Committee rejecting the request of the petitioner to issue a community certificate certifying that his children S.P.Dhiyaneshwaran and S.Arunthathika belong to Kurumans, a scheduled tribe community, the petitioner has come up with this writ petition.

2. The petitioner, who has been favoured with a certificate to the effect that he belongs to Kurumbar, sought for issuance of community certificate that his children belong to the scheduled tribe community Kuruman by making a grievance petition to the District Collector. The same



W.P.No.11956 of 2021

was referred to the Revenue Divisional Officer as per the procedure

suggested by the Hon'ble Supreme Court in ***Kumari Madhuri Patel & Ors.***

vs. Additional Commissioner, Tribal Development & Ors. reported in ***1984***

(6) SCC 241. The Sub-Collector, Mettur who conducted an enquiry concluded that the petitioner has been shown as belonging to Kurumbar which is a Most Backward Community and hence his children are entitled to a certificate to the effect that they belong to Kurumans, a Scheduled Tribe community.

3. Initially the said order was challenged in W.P.No.9211 of 2017.

Upon realizing that there is an appellate remedy under Government Order in G.O.Ms.No.147 dated 17.03.2016, the writ petition was withdrawn and an appeal was filed to the District Collector, Salem. The District Collector also rejected the claim and a second appeal was lodged with the State Level Scrutiny Committee. The State Level Scrutiny Committee required the District Level Vigilance Cell and Anthropologist to enquire into the matter.



W.P.No.11956 of 2021

4. The Anthropologist filed a report concluding that the petitioner and his children belong to scheduled tribe community Kurumans. The District Level Vigilance Cell however took a different view and in support of its conclusion, had relied upon various documents, where the petitioner and his near relatives were described as belonging to the community viz., Kurumbar.

5. The District Level Vigilance Cell also rejected the claim of the petitioner based on the order of the State Level Scrutiny Committee dated 28.04.2008, wherein, the Committee took up for verification the certificate issued to one G.Vani, who happens to be paternal cousin of the petitioner. The Committee based on the report of the Vigilance Cell and the Anthropologist concluded that she belongs to scheduled tribe community Kurumans. The District Level Vigilance Cell refused to accept the said order on the ground that the said Vani was shown as one belonging to Kuruman in her school records. At the same time, the District Level Vigilance Cell refused to believe the school records of the petitioner's children, which also show that they are Kurumans. It chose to rely upon the



W.P.No.11956 of 2021

records, where some of the close relatives on the maternal side of the petitioner were shown as Kurumbar. The State Level Scrutiny Committee also agreed with the Vigilance Cell. Hence, the writ petition.

6. We have heard Mr.M.Elango learned counsel appearing for the petitioner and Mrs.C.Sangamithirai, learned Special Government Pleader appearing for the respondents.

7. We find that the report of the District Level Vigilance Cell is flawed on fundamentals. The District Level Vigilance Cell has referred to various documents where the maternal side relatives of the petitioner have been referred to as Kurumbar, which according to the District Level Vigilance Cell is Most Backward Class community. The list of Scheduled Class, Scheduled Tribe and Most Backward Class communities does not contain a community called Kurumbar. There is a community called Kurumba or Kurumba Gounder in the list of Most Backward Class communities.



W.P.No.11956 of 2021

WEB COPY

8. Taking note of this anomaly, the Government pursuant to the orders of this Court in W.P.No.25963 of 2013 dated 22.11.2013 issued a clarification letter in letter No.901/CV1/2014-1 dated 18.03.2014, wherein, the Authorities were specifically directed to recall the certificates issued showing the caste name as Kurumbar and not to rely upon any such description as Kurumbar. In the light of the said instructions, the report of the District Level Vigilance Cell is flawed as it relies upon only those certificates which have been issued with a caste name Kurumbar. Therefore, the entire basis on which the District Level Vigilance Cell concluded that the petitioner belongs to Kurumbar, Most Backward Class community and not Kuruman Scheduled Tribe community is incorrect. Moreover all those certificates are that of the relatives from the maternal side of the petitioner.

9. The District Level Vigilance Cell also rejected various records produced by the petitioner including the order of the State Level Scrutiny Committee issued as early as in the year 2008, confirming that the



W.P.No.11956 of 2021

petitioner's paternal cousin sister belongs to Scheduled Tribe community called Kuruman and the reason assigned for rejecting the certificate is in our opinion totally erroneous. If a person is described by a particular community in the school records and the same is carried on and the certificate is verified by the State Level Scrutiny Committee and the Committee upholds the genuineness of the certificate, when it comes to the near relatives of such person, whether such person is shown to belong to some other community or not in the school records does not materially alter the situation.

10. The petitioner himself has come with a claim that he had been wrongly issued certificate that he is Kurumbar. As per letter dated 18.03.2014, the Authorities are bound to recall the certificate and issue a fresh certificate. Admittedly, such an exercise is not done. Therefore, the State Level Scrutiny Committee erred in taking into account the description in those certificates, which have been directed to be recalled, to conclude that the petitioner does not belong to the scheduled tribe community Kuruman.



W.P.No.11956 of 2021

WEB COPY

11. Considering the above and particularly the fact that the certificate that has been issued to the paternal cousin of the petitioner has been verified and found to be genuine, we are constrained to interfere and set aside the order of the State Level Scrutiny Committee. We uphold the claim of the petitioner that he belongs to Kuruman Scheduled Tribe community. The Revenue Divisional Officer, Mettur, 3rd respondent is directed to issue a certificate to the effect that the petitioner's children belong to Scheduled Tribe community Kuruman within a period of eight (8) weeks from the date of receipt of a copy of the order.

12. Accordingly, this writ petition is **allowed**. No costs. Consequently, the connected miscellaneous petitions are closed.

(R.S.M.,J.) (K.B.,J.)
11.11.2022

dsa

Index :No
Internet :Yes
Speaking order

8/10



W.P.No.11956 of 2021

To:-

- 1.The Chairman,
State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Fort St. George, Chennai – 600 009.
- 2.The District Collect,
Salem, Salem District.
- 3.The Sub-Collector cum Revenue Divisional Officer,
Revenue Divisional Office, Mettur Dam,
Salem District – 636 401.



WEB COPY



W.P.No.11956 of 2021

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

dsa

W.P.No.11956 of 2021

11.11.2022