



WEB COPY



W.P.No.16865 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2022

CORAM:

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

Writ Petition No.16865 of 2022

K.P.Murugesan

... Petitioner

Versus

1. The Revenue Divisional Officer
Salem 636 001.

2. The Director of Tribal Welfare
Chennai 600 005.

.. 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 in the order bearing No.Pa.Mu.3492/21 (A1) dated 7.4.2022 and quashing the same, and directing respondent no.1 to reconsider the application of the petitioner dated 23.5.2016 in the light of the Cultural Report on “Kurumans” sent by respondent No.2 vide his letter dated 18.02.2015 to respondent No.1



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within a reasonable time.

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For Petitioner : Mr.M.Radhakrishnan

For Respondents : Ms.C.Sangamithirai
Special Govt. Pleader

ORDER

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

Challenge in the Writ Petition is to the order of the Revenue Divisional Officer, Salem, dated 07.04.2022, in and by which, the Revenue Divisional Officer had rejected the claim of the petitioner for a Certificate to the effect that he belongs to Kuruman, a Scheduled Tribe. There is also a prayer for a Mandamus directing the first respondent, Revenue Divisional Officer to reconsider the application of the petitioner in the light of the cultural report on Kurumans, sent by the Director of Tribal Welfare, viz. the second respondent along with the letter dated 18.02.2015.

2. Mr.M.Radhakrishnan, learned counsel appearing for the petitioner would vehemently contend that the cultural traits of the community is more important in case of Scheduled Tribes and unless the Officers



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deciding on the status have the aid of an Anthropologist, it will be very difficult for them to decide the communal status of a Scheduled Tribe person.

He would also submit that the Revenue Divisional Officer had gone astray, since she did not have the aid of the Report of an Anthropologist. Though the prayer is for reconsideration, we do not think we can vest such a review power or a power to reconsider in the officers, who have been nominated under G.O.Ms. No.147 dated 17.03.2016 to decide the claims regarding communal status by persons belonging to Scheduled Tribes. The said Government order itself provides for Appellate remedy to the District collector. When we pointed out the availability of the Appellate remedy, the learned counsel Mr.M.Radhakrishnan, would submit that again the same problem of absence of aid of Anthropologist will haunt the petitioner.

3. We therefore required the Government Pleader to find out, as to whether the District Collectors, who have been burdened with the job of deciding Appeals filed against the orders of the Revenue Divisional Officers regarding Community Certificates, could take the aid of an Anthropologist.



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4. Ms.Sangamithirai, learned Special Government Pleader would submit that there is neither permission nor specific prohibition in that regard in the prevailing Government Orders. We are inclined to agree with the submission of Mr.M.Radhakrishnan, to the effect that the report of the Anthropologist which considers the cultural traits plays a vital role in the determination of the communal status, even though it has been held to be only a relevant factor by this Court and as well as the Hon'ble Supreme Court.

5. We therefore dispose of the Writ Petition with liberty to the petitioner to file an Appeal to the District Collector. In the event such Appeal is filed the District Collector, Salem will take the aid of an Anthropologist before deciding on the communal status of the petitioner. There shall be no order as to costs.

(R.SUBRAMANIAN, J.) (K.KUMARESH BABU, J.)

30.11.2022

jv

Index: No

Internet: Yes

Speaking Order



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To

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R.SUBRAMANIAN, J.
and
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