



W.P.No.15865 of 2022
and W.M.P.Nos.15162 & 15163 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2023

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.15865 of 2022

and

W.M.P. Nos.15162 & 15163 of 2022

C.Selvarani

...Petitioner

Vs.

1.The Special Secretary - Cum- District Collector,
Office of the District Collector,
Government of Puducherry,
Pondicherry.

2.The Deputy Collector (Revenue) North,
Office of the Deputy Collector (Revenue) North,
Government of Puducherry,
Pondicherry.

3.The Tahsildar,
Taluk Office, Puducherry.

4.The Deputy Tahsildar,
Taluk Office, Puducherry.

5.The Village Administrative Officer,



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Murungapakkam Village,
Taluk Office, Pondicherry.

6.The Secretary to Government,
Government of Puducherry,
Department of Personnel & Administrative Reforms
(Personnel Wing), Secretariat,
Pondicherry.

7.The Under Secretary to Government,
Government of Puducherry,
Department of Personnel & Administrative Reforms
(Personnel Wing), Secretariat,
Pondicherry.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ Certiorari to call for the records relating to impugned proceedings vide No.1076 / TOP / C / SC / 2016 dated 19.06.2017 passed by the 3rd respondent and consequential impugned order vide No. 4583 / DCR(N) / A2 / 2016 / CV / 2070 dated 29.08.2017 passed by the 2nd respondent on Appeal and quash them as highly illegal, unlawful, arbitrary, unconstitutional and violative of basic principle of Natural Justice Audit Alteram Partrm and consequently direct the respondent Nos. 1 to 3 to issue scheduled caste (SC) community certificate to the petitioner as per the constitution (Pondicherry) Scheduled Castes Order, 1964 based on earlier community certificate issued by the 3rd respondent in favour of petitioner and family members of the petitioner.



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For Petitioner : Mr.Prakash Adiapadam
For R1 to R5 : Mr.Ramaswamy Meyyappan
Government Advocate (Pondicherry)
For R6 & R7 : Mr.A.Tamilvanan
Additional Government Pleader

ORDER

(R.HEMALATHA, J.)

The petitioner Selvarani has filed this petition to quash the impugned order dated 29.08.2017 passed by the Deputy Collector (Revenue) North and to direct the Special Secretary cum District Collector, Deputy Collector (Revenue) North and the Tahsildar, Government of Puducherry to issue Scheduled Caste Community Certificate to the petitioner as per the Constitution (Pondicherry) of Scheduled Castes Order, 1964.

2.Quickly into the facts of the case in brief:

The petitioner was born on 22.11.1990 to one Christian S/o. Mounien (late) and Santhamarie at Maternity Hospital, Puducherry. The



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petitioner also has a brother by name Selvaraj and they are permanent residents of Kobakkampet Village, Puducherry and belong to 'Valluvan' caste which is recognised as scheduled caste as per the constitution (Pondicherry) Scheduled Castes Order, 1964. According to her, her grandparents, great grandparents and other ancestors also belong to Hindu Valluvan Community and have been living in Puducherry for many generations. In such circumstances, her mother Santhamarie was a Christian by religion before marriage and after the marriage with the Christian S/o.Mounien she got converted to Hindu Religion and started professing Hinduism. It was also her contention that she did her schooling at Jawahar Navodaya Vidyalaya, Periyakalapet, Pondicherry and subsequently did her graduation (B.Tech) from Dr.Pauls Engineering College, Pondicherry and thereafter, she post graduated (M.Tech) from Pondicherry Engineering College, Kalapet, Pondicherry in the month of April 2014. According to her, throughout her education she was treated as a Hindu under the Adidravida Quota and even her registration with the employment exchange was under Scheduled Caste Quota. Further to this she had applied for the post of Upper Division Clerk in the Government



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of Puducherry, Department of Personnel Administrative Reforms and was allowed to write the competitive examination on 25.10.2015 and on 28.10.2015 her name was found in the provisional selection list for the post of UDC based on the marks she had secured in the said written competitive exam. She was also directed to appear for certificate verification on 17.11.2015 in the Secretariat, Pondicherry in which she was directed to bring the latest original community, residence and nativity certificates issued by Tahsildar. According to her, she was made to run from pillar to post to obtain the same and that she already had community certificate dated 19.07.2012 issued by Deputy Tahsildar, Taluk Office, Puducherry which was not cancelled and it was not accepted. The petitioner was constrained to seek extension of time for submission of the community certificate till 18.03.2016. However, on 29.03.2016 there was an order by the Tahsildar of Government of Puducherry in which her request for issuance of community certificate as scheduled caste was rejected stating that her father Christian belongs to the category 'Converts to Christianity' from scheduled caste and that the petitioner Selvarani was baptised at Lourdes Shrine, Villianur,



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Puducherry and therefore, since she does not profess Hinduism, Buddhism and Sikhism the caste certificate under the Constitution (Pondicherry) Scheduled Castes Order, 1964 cannot be issued. The petitioner filed an appeal against the order dated 29.03.2016 before the Deputy Collector (Revenue) North, Government of Puducherry / second respondent who confirmed the order of the Tahsildar (third respondent) vide orders dated 18.07.2016. Subsequently, the Department of Personnel Administrative Reforms, Government of Puducherry, intimated the cancellation of the provisional selection to the petitioner vide Memorandum dated 22.09.2016. Her appeal dated 27.09.2016 to the Special Secretary cum District Collector, Government of Puducherry was also not considered favourably vide letter dated 30.09.2016 and further advising her to approach the appropriate Court, in case she is aggrieved.

3.The aggrieved petitioner filed W.P.No.43516 of 2016 before the Court challenging all these orders. This Court directed the third respondent to conduct a fresh enquiry and pass orders on merits and as per law. This order was based on the submission made by the Tahsildar,



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Puducherry Taluk that he would withdraw his order dated 29.03.2016 and would conduct a fresh enquiry and pass orders on merits. Based on the fresh enquiry, the Tahsildar, Puducherry Taluk vide his order dated 19.06.2017 rejected her application for caste certificate which was again confirmed by the Deputy Collector vide his order dated 29.08.2017 and finally by the Special Officer cum District Collector vide order dated 14.09.2017.

4.The present writ petition is against these orders.

5.Heard Mr.Prakash Adiapadam, learned counsel appearing for the petitioner, Mr.Ramaswamy Meyyappan, learned Government Advocate (Pondicherry) appearing for the respondents 1 to 5 and Mr.A.Tamilvanan, learned Additional Government Pleader appearing for the respondents 6 & 7.

6.Mr.Prakash Adiapadam, learned counsel for the petitioner would contend that the petitioner was born to a Hindu father and a



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Christian mother who also started professing Hinduism and therefore, she was a Hindu by birth and by belief and practice. It was further contended that the petitioner had all along completed her education that too passing out with M.Tech (IT) degree availing Scheduled Caste Quota. However, the turn of events took place only during the community certificate verification by the Department of Personnel and Administrative Reforms, Government of Puducherry at the time of selection for UDC cadre, it was contended. According to him, the act of respondents 1 to 3 in denying her the certificate that she belongs to Scheduled Caste community is totally unwarranted and illegal. It was also argued by him that her brother by name Selvaraj also was holding a Scheduled Caste certificate and therefore, denying her the certificate is totally erroneous. It was also contended by him that the Apex Court in Civil Appeal No.2723 of 2015 in *District Collector Satara & Another vs. Mangesh Nivrutti Kashid* held that Caste Scrutiny Committee with the assistance of vigilance cell is the appropriate competent authority to issue caste certificate to SC/ST persons and therefore, the certificate refusal by the Tahsildar is not valid. Therefore, he contended that the petition has to



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7.Per contra Mr.Ramaswamy Meyyappan, learned Government Advocate would contend that the Government of Puducherry was conscious of the facts that there were Scheduled Caste community certificates issued to ineligible persons and this problem being rampant, a method to stream line the system was implemented to ensure that only the genuine Scheduled Caste belonging to Hindu Religion be issued the community certificate. According to him, the petitioner was found to be professing Christianity for quite sometime since 1991 when she was baptised and the Constitution (Pondicherry) Scheduled Castes Order, 1964 had clearly specified that any Hindu Scheduled Caste who gets converted to Christianity cannot be treated as Scheduled Caste and becomes ineligible for availing any concession meant for Scheduled Caste. It was also contended that there was no dispute as to the original caste of the father of the petitioner as well as the petitioner but only whether they lost the status by conversion to Christianity is the main question.



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8.It is true that the petitioner was afforded an opportunity to substantiate her contention with the help of oral / documentary evidence that she belongs to Valluvan caste, Hindu Religion. The third respondent who had issued the order dated 19.06.2017 had provided the following documents vide his letter dated 30.03.2017 and was asked to offer her comments :

- i. Statement of Selvi. Selvarani D/o.Christian, dated 08.12.2015.
- ii. Statement of Thiru. Christian S/o. Munian, dated 08.12.2015.
- iii. Statement of Tvl. (1) Punniyakodi, (2) Paramadayalan, (3) Gabriel and (4) Dess, dated 08.12.2015.
- iv. Letter dated 06.01.2016 submitted by Thiru.Anand S/o.Sekar with enclosures.
- v. Endorsement dated 08.02.2016 on the letter dated 06.01.2016, submitted by Thiru.Anand S/o.Sekar
- vi. Certified copy of an entry in the Register of Baptism, kept in the Parish of Lourdes Shrine, Villianur, in respect of Selvi. Selvarani, dated 20.11.2015.



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vii.Certified copy of an entry in the Register of Baptism, kept in the Parish of Lourdes Shrine, Villianur, in respect of Thiru.Selvaraj, S/o.Christian, dated 15.03.2017.

viii.Extract from the Register of Marriages kept at Lourdes Shrine, Villianur, in respect of Thiru.Christian and Tmt.Sanda Maria, dated 15.03.2017.

ix. Report of the VAO, Murungapakkam Revenue Village, dated 24.11.2015 and endorsed by the Revenue Inspector, Mudaliarpet Firka.

The petitioner in her reply dated 12.05.2017 had made certain submissions which are enumerated below .

- i. Her father, Christian S/o. Mounien belongs to Valluvan caste Hindu Religion.
- ii. Her grandmother Sivabakkiyam was buried at the burial ground which belongs to Valluvan community and funeral rites took place as per Hindu rites and customs.
- iii. Her mother Santhamarie though was a Christian converted to Hinduism after marriage.



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iv. The petitioner throughout her education was treated as Hindu Scheduled Caste and her transfer certificate also confirmed her community.

v. However, she also admitted that she was baptised when she was just five months old and therefore, without her knowledge.

The third respondent after conducting elaborate field enquiry and recording the statements of one Punniyakodi, Paramadayalan, Gabriel and Dass who hailed from the same village, concluded that the family of Christian had converted to Christianity. These persons had categorically stated that even as early as 12.11.1987, the father and mother of Selvarani got baptised as is evidenced in the extract of Register of Marriage at Lourdes Shrine, Villianoor. They had further contended that the petitioner's mother Santhamarie continued to profess Christianity even after marriage and that she had also got her husband, two children converted to Christianity. The order also clearly mentions that as per the provision of Constitution (Pondicherry) Scheduled Castes Order, 1964, a Scheduled Caste certificate can be issued only to a person who is professing either Hinduism, Sikhism or Buddhism. The second



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respondent in his order also recommended for cancellation of Scheduled

Caste certificate issued earlier to her since she had converted to Christianity and failed to fulfil the basic criteria for issuance of Scheduled Caste certificate. In this context in the decision in *Soosai etc. vs. Union of India & Others* reported in 1986 AIR 733 the Hon'ble Apex Court held that :

".....

The expression Scheduled Castes is defined in clause 24 of Article 366 to mean such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under Article 341 to be Scheduled Castes for the purpose of this Constitution . Clause (1) of Article 341 enjoins upon the President to specify by public notification the castes, races or tribes or parts of or groups within castes, races or tribes, which for the purposes of the Constitution are deemed to be Scheduled Castes in relation to a State or Union territory. Once such notification is issued by the President it cannot be varied by any subsequent notification except that, by virtue of clause (2) of Article 341, Parliament may by law include in or exclude from the list of Scheduled Castes specified in the



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notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe. In discharge of the obligation imposed by clause (1) of [Article 341](#) the President issued the Constitution (Scheduled Castes) Order, 1950. In its original form, paragraph 3 declared thatno person who professes a religion different from Hinduism- would be deemed to be 2 member of z Scheduled Caste. There was a proviso to paragraph 3 which declared that every member of the Ramdasi, Kabirpanthi, Mazhabi or Sikligar caste resident in Punjab or the Patiala and East Punjab States Union would in relation to that State be deemed to be member of the Scheduled Castes whether the professed the Hindu religion or the Sikh religion. Subsequently Parliament enacted the Scheduled Castes and Scheduled tribes orders ([Amendment](#)) Act, 1956 which substituted for the original paragraph 3 that present paragraph, which declares:-

"3. Notwithstanding anything contained in paragraph 2, no person who professes a religion different from the Hindu or the Sikh religion shall be deemed to be a member of a Scheduled Caste.

It is apparent that for the purpose of the Constitution the constitutional provisions relating to Scheduled Castes are intended to be applied to only those members of the castes



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enumerated in the Constitution (Scheduled Castes) Order, 1950 who profess the Hindu or the Sikh religion. Clearly, if it can be contemplated that a Christian belongs to one of those castes, he is barred by reason of paragraph 3, from being regarded as a member of a Scheduled Caste and is, therefore, not entitled to the benefit of the constitutional provisions relating to Scheduled Castes.

.....

It is quite evident that the President had before him all this material indicating that the depressed classes of the Hindu and the Sikh communities suffered from economic and social disabilities and cultural and educational backwardness so gross in character and degree that the members of those castes in the two communities called for the protection of the Constitutional provisions relating to the Scheduled Castes. It was evident that in order to provide for their amelioration and advancement it was necessary to conceive of intervention by the State through its legislative and executive powers. It must be remembered that the declaration incorporated in paragraph 3 deeming them to be members of the Scheduled Castes was a declaration made for the purposes of the Constitution. It was a declaration enjoined by clause (1) of [Article 341](#) of the



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Constitution. To establish that paragraph 3 of the Constitution (Scheduled Castes) Order, 1950 discriminates against Christian members of the enumerated castes it must be shown that they suffer from a comparable depth of social and economic disabilities and cultural and educational backwardness and similar levels of degradation within the Christian community necessitating intervention by the State under the provisions of the Constitution. It is not sufficient to show that the same caste continues after conversion. It is necessary to establish further that the disabilities and handicaps suffered from such caste membership in the social order of its origin Hinduism - continue in their oppressive severity in the new environment of a different religions community. References have been made in the material before us in the most cursory manner to the character and incidents of the castes within the Christian fold, but no authoritative and detailed study dealing with the present conditions of Christian society have been placed on the record in this case. It is, therefore, not possible to say that the president acted arbitrarily in the exercise of his judgment in enacting paragraph 3 of the Constitution (Scheduled Castes) order, 1950. It is now well established that when a violation of [Article 14](#) or any of its related



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Therefore, we do not find any merit in the case of the petitioner to allow the petition.

9.In the result, the Writ Petition is dismissed. No costs.
Consequently, connected miscellaneous petitions are closed.

(V.M.V.,J.)

(R.H.,J.)

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl



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