



W.P.No.9586 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mr.JUSTICE.V.LAKSHMINARAYANAN

W.P.No.9586 of 2014

S.Sumathy

..Petitioner

Vs

1.Union of India
Represented by
Secretary Revenue,
Government of Puducherry,
Puducherry.

2.The Tahsildar,
Karaikal District,
Puducherry State.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the entire records connected with the proceedings of the 2nd respondent, Tahsildar Karaikal in proceedings No.1460/B2/TLK/KKL/2013 dated 08.05.2013 in not granting scheduled caste (origin) certificate and quash the same and to direct the respondents to issue scheduled caste (origin) certificate to the petitioner's son Bharath Rajan.



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For Petitioner : Mr.H.Manojin

For Respondents : Mr.J.Kumaran
Additional Government Pleader (Pondy)

ORDER

(Order of the Court was made by V.LAKSHMINARAYANAN,J)

This writ petition has been filed to call for the entire records and to quash the proceedings of the 2nd respondent, Tahsildar Karaikal in proceedings No.1460/B2/TLK/KKL/2013 dated 08.05.2013, for not granting scheduled caste (origin) certificate to the petitioner's son Bharath Rajan and consequently, direct him to issue the same.

2. The case of the petitioner is that the petitioner belongs to Hindu Adidravida (Parayar) Community. The petitioner's husband is from Tamilnadu and he also belongs to the very same Hindu Adidravida (Parayar) Community.

3. It is pertinent to point out that, as per the presidential notification issued for Tamilnadu as well as Puducherry, the said community comes within the scope of Scheduled Caste community.

4. The very issue that has been raised before us, was considered by the



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learned Single Judge of this Court in the case of **P.Jeya. vs. Union of**

India(UID) reported in **AIR2005Mad116**, in which, the learned Judge held in

Para 32 and 36 as follows:

" 32. Assessing all the above factors and to put them in a nutshell, relating to the question of issuance of the Scheduled Caste Certificate in favour of the children of the parents of the origin of Pondicherry State on the date of the notification of the Presidential Order, migrants from other States on the date of the said notification means whether both the parents, on the date of the said notification should have been born and continue to reside in Pondicherry, as it is advocated on the part of the respondents here or in the case of any one of the parents whose origin is from outside the Pondicherry limits, whether the claim of Scheduled Caste Certificate should be rejected in toto and whether such rejection is reasonable within the meaning of Articles 14 and 15 of the Constitution of India, or whether either father or mother of the same Adi Dravida community hails



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from outside the territorial limits of Pondicherry and by virtue of marriage with the other spouse comes and lives at Pondicherry and gives birth to children and in such event by virtue of the other spouse being an origin of Union Territory of Pondicherry whether the children born to them in spite of having been born to parents of Adi Dravida community should forego their right to get a Scheduled Caste Certificate just for the simple reason that it is the origin of the father that would only be taken as a criteria and not the mother as per the impugned memorandum and in such event, such criteria fixed by the Government interpreting the G.O. and superseding the earlier memorandum issued dated 3.8.1995 which insisted that if either of the parents has the origin at Pondicherry, it is sufficient for their children to get a Scheduled Caste Certificate is within the parameters of the law and the constitutional rights guaranteed under the relevant Articles 14 and 15 of the Constitution of India, and therefore, it is



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necessary to have a little discussion on these Articles.

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36. In result,

(i) for all the above discussions held, the above writ petition stands allowed;

(ii) the impugned memorandum issued by the first respondent in No.9 565/C2/Rev/2000 dated 10.11.2000, since being discriminatory within the meaning and import of Articles 14 and 15 of the Constitution of India, is declared unconstitutional;

(iii) The earlier memorandum dated 3.8.1995 requiring the issuance of scheduled caste certificate, the origin of either, father or mother of the child seeking such certificate, since being a reasonable order within the ambit of the relevant Articles of Constitution, the same is declared valid;

iv) the respondents are directed to immediately process the representation of the petitioner seeking the scheduled caste



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certificate in favour of her son P.Sivakumar as a scheduled caste of Union Territory of Pondicherry issuing the certificate, giving effect to the memorandum dated 3.8.1995 within 30 days from the date of receipt of a copy of this order, provided the other usual requirements are satisfied....."

5. Therefore, conclusion of the learned Judge was that, as per the memorandum issued by the Government of Pondicherry on 03.08.1995, the certificate could be based either on the origin of the father or the origin of the mother and this was found to be reasonable in terms of Constitution of India.

6. Not being satisfied with the said view, an appeal was preferred before a Division Bench of this Court in W.A.No.1326 of 2005. The writ appeal was dismissed on 30.03.2010, upholding the view of the learned Single Judge cited above that the child can be considered for the purpose of issuing community certificate either by the origin of the father or by the origin of the mother. As we have pointed out on the facts of this case, both the father and the mother



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belong to Scheduled caste community and the mother being a Scheduled caste from Puducherry and father being a Scheduled caste from Tamilnadu.

7. The averments in the affidavit would go to show that the child was brought up entirely in Puducherry and therefore, the origin of the mother alone matters. After the dismissal of the writ appeal, the matter was taken to the Supreme Court in Civil Appeal No. 9082 of 2014. The said Civil Appeal was dismissed on 19.04.2023, leaving open the question of law. The directions given by the learned Single Judge as well as by the Division Bench stood confirmed.

8. Learned counsel appearing for the State of Puducherry would submit that the Division Bench and the learned Single Judge did not consider the scope of **Action Committee on issue of Caste Certificate to Scheduled Castes and Schedule Tribes in the *State of Maharashtra and another and vs. Union of India and another*** reported in (1994) 5 Supreme Court Cases 244.

9. We have carefully gone through the view of the learned Division



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Bench and we find that the Division Bench had in fact, referred to the said Judgment. It is pertinent to point out that the said judgment related to migrant Scheduled caste from one State to another. The Supreme Court had to consider the issue whether the person who is Scheduled Caste in one particular State continues to carry the status within neighbouring State or the other State. The Supreme Court held, as per the presidential notification, the caste which the petitioner belongs must be declared as Scheduled caste or Scheduled Tribe in the State in which he seeks the benefit of reservation.

10. We have already pointed out that, in the State of Puducherry, Hindu Adidravida (Parayar) is considered as Scheduled Caste community. The only issue that we have to see is whether it is the origin of the mother or origin of the father, that has to be considered.

11. The office memorandum which was originally relied upon by the respondents to deny the Scheduled caste benefits to the writ petitioner i.e., dated 10.11.2000 has been declared unconstitutional and it has been upheld by the Division Bench as well as by the Supreme Court. Consequently, the law that is in force today, is the office memorandum dated 03.08.1995 which has



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been held valid. This position having been approved by the Supreme Court, we have to apply the same to the facts and circumstances of the present case. The facts putforth above would go to show that the petitioner's son was brought up entirely in the State of Puducherry under the care and custody of his mother, who is of Puducherry origin and belongs to Scheduled caste community. Therefore, judgments of this Court will apply in all force to the facts of the case.

12. Accordingly, this writ petition stands allowed. The respondents are directed to issue a caste certificate to the petitioner's son (Bharath Rajan), within a period of four(4) weeks from the date of receipt of a copy of this order. No costs.

(J.N.B.,J.) (V.L.N.,J.)
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Puducherry.

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2. The Tahsildar,
Karaikal District,
Puducherry State.



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