

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.20168 of 2023
and WMP.Nos.19506 & 19508 of 2023

Sumithra

.... Petitioner

Vs

1.The District Collector,
Puducherry.

2.The Deputy Collector (Revenue South),
Villaianur,
Puducherry.

3.The Tahsildar – Cum executive magistrate,
Taluk office,
Villaianur,
Puducherry.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order No.3170/TOV/A3/certificates/2023-24 dated 16.06.2023 passed by the 3rd respondent and order No.3391/DCRS/B7/Cert-Appeal/2023/1394 dated 22.06.2023 passed by the 2nd respondent and quash the same and consequently direct the respondents 1 and 2 to issue residence certificate to the petitioner stating that the petitioner is residing in No.31, Indra Nagar, Sanniyasikuppam, Puducherry – 605 107.

For Petitioner : Mr.M.Gnanasekar
For Respondents : Mr.A.Tamilvanan,
Additional Government Pleader (P)

ORDER

The petitioner has been selected as a Police Constable in Puducherry Police force. Now, the Authorities require her to produce the Residential Certificate. However, when the petitioner applied for a Residential Certificate, it was rejected Vide the impugned proceedings of the third respondent on the ground that she was married to one Karthick, who is not a native or resident of Puducherry but, from Cuddalore, Tamil Nadu. This is now under challenge.

2.The second respondent has filed his counter wherein he refers to order No.6260/C2/Rev/2003, dated 06.10.2003 and a order No.1-4/SS(Rev.)DRDM/PA/2010, dated 07.01.2010. The relevant portion is extracted hereunder;

“9.I submit that order No.6260/C2/Rev/2003, dt: 06.10.2003 of the Secretary (Revenue), Revenue Department, Puducherry stipulates the guidelines for determining the residence of Puducherry that;-

“the actual and physical residence of the applicant/parents/Guardian is essential. But, mere possession of evidences like Ration card, EPIC card

or previous certificate, etc., are not the sole criteria for issuance of the residence Certificate.

10.I submit that the Note issued by the Special Secretary-cum-District Collector vide order No.1-4/SS(Rev.)/DRDM/PA/2010, dt: 07.01.2010 as clarifying the residence of women who are married away to other States are as follows;-

“the applicant is a married person who is living with her husband outside the Union territory limits. Therefore her right of residence status in Puducherry ceases once she shifts her residence to another house in Tamilnadu or any other state from the date of her shifting of residence. Though nativity certificate by birth can be issued residence certificate of having continuous residence of 5 years may not be possible to be issued to these candidates who have shifted their residence of Tamilnadu since they are living with her husband there”

3.While the Government Order dated 06.10.2003 at least make some sense, the Government Order dated 07.01.2010 does not make any sense, since every citizen has a right to marry a man or women of their choice, no matter where they are from. For the purpose of providing Residence Certificate, what is important is whether the person is physically residing in Puducherry for a continuous period of five years. This alone need to be investigated. In this regard, a ration card can be verified but, still that may not be conclusive. It only requires some enquiry done by the Authorities concerned rather than following certain pedantic norm prescribed by the District Collector. This Court will appreciate if the District Collector/first

respondent spends some time on the legitimacy of the circular he has issued on 07.01.2010 and consider recalling the same.

4.In conclusion, this Court sets aside the impugned order of the Tahsildar/third respondent and remands the matter back to him. This Court directs the first respondent to consider the case of the petitioner unhindered by the Government Order dated 07.01.2010 as extracted above.

5.In this regard, this Court perused the report of the Village Administrative Officer. The District Collector/first respondent is required to nominate some other Authority under him and personally monitor that these officials perform their job with responsibility.

6.The Writ Petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

24.07.2023

Index : Yes / No
Speaking order / Non-speaking order
Tsg

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