



WEB COPY



W.P.No.22-----

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.08.2023

CORAM

THE HON'BLE MRS.JUSTICE J.NISHA BANU

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.22256 of 2023

B.Vijaya

... Petitioner

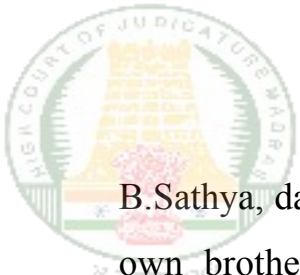
Vs.

1.The Collector,
Thirupattur,
Thirupattur District.

2.The Revenue Divisional Officer,
Thirupattur,
Thirupattur District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the rejection order passed in Proceedings No.Na.Ka.Pa.Me/A1/116/2022 dated 24.05.2023 on the file of the first respondent confirming the order passed by the second respondent in Application Numbers TN-5202206083599 (Vijaya), TN-5202206083916 (Ramya) and TN-5202206084148 (Babu) dated 12.07.2022 on the file of the second respondent quash the same and direct the second respondent to issue community certificate to the petitioner, her daughter B.Ramya and her husband Babu that they belong to Kurumans (ST) Community based upon the Community Certificate of the petitioner's son



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B.Sathya, daughter B.Nithya and State Committee genuineness report of the petitioner's own brother L.Nagaraj in ProceedingsNo.3053/CV-2/2015-5 dated 30.03.2015 and other family members.

For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.E.Vijayanand
Additional Government Pleader

* * * * *

ORDER

[Order of the Court was made by N.MALA,J.]

This Writ Petition is filed to call for the records relating to the rejection order passed in Proceedings No.Na.Ka.Pa.Me/A1/116/2022 dated 24.05.2023 on the file of the first respondent confirming the order passed by the second respondent in Application Numbers TN-5202206083599 (Vijaya), TN-5202206083916 (Ramya) and TN-5202206084148 (Babu) dated 12.07.2022 on the file of the second respondent quash the same and direct the second respondent to issue community certificate to the petitioner, her daughter B.Ramya and her husband Babu that they belong to Kurumans (ST) Community based upon the Community Certificate of the petitioner's son B.Sathya, daughter B.Nithya and State Committee genuineness report of the petitioner's own brother L.Nagaraj in ProceedingsNo.3053/CV-2/2015-5 dated 30.03.2015 and other family members.



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2.It is submitted that the respondent do not have knowledge about communities and that is the reason for rejecting the claim of the petitioner that she belongs to the Kurumbar Community eventhough there is no community such as Kurumbar. The Division Bench of this Court in W.P.No.25963 of 2013 while holding there is no community such as Kurumbar, directed the Secretary to Government to instruct the certificate issuing authorities and the concerned authorities to refrain from issuing community certificate as Kurumbar and to recall the certificates already issued as Kurumbar and to rectify the mistake. Based on the above order the Secretary to Government issued a circular in Letter No.901/CV1/2014-1 dated 18.03.2014 to all the competent authorities to recall the certificates already issued as Kurumbar. In another writ petition in W.P.No.1807 of 2013, the Division Bench of this Court, while setting aside, the certificate issued to a candidate as belonging to Kurumbar Community directed the RDO, to issue a community certificate that the candidate belonged to Kurumans (ST) Community. Hence, the order passed by the respondents was liable to be quashed.

3.The learned counsel vehemently contended that the petitioner's own brother's certificate was referred to the State Level Scrutiny Committee and found to be genuine.



However, as reprehensible and unreasonable they are, the authorities rejected the claim of the petitioner, despite the claim being based on the certificate issued to her own brother which was held to be genuine by the State Level Scrutiny Committee.

4.From the impugned order, it is seen that the community certificate to the petitioner's husband and daughter were rejected on the ground that the petitioner's husband and daughter belong to the Hindu Kurumbar MBC Community. The Division Bench of this Court in a Writ Petition in W.P.Nos.25963 and 25964 of 2013 held as follows:

“8.We find much force in the plea made by the petitioners that the competent authority has relied upon the community “Kurumbar” for rejecting the application for Scheduled Tribe community certificate and we once again reiterate that the competent authority is not entitled to refer to the name of “Kurumbar” (MBC) for the purpose of deciding the claim for issuance of Scheduled Tribe Community Certificate. Even assuming that there are certificates issued in favour of one or other persons bearing the name of “Kurumbar” with or without MBC tag, the authority shall independently verify the claim as to whether the petitioner falls under



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the Scheduled Tribe community on the basis of relevant materials that would be submitted by the petitioner in the relevant case and also shall follow the procedures prescribed in G.O. Ms. No.106 dated 15.10.2012. The Director of Adi Dravidar and Tribal Welfare Department is directed to inform all the competent authorities to cease and desist from referring to the name of the community as “Kurumbar” (allegedly said to be MBC) for the purpose of deciding any claim whatsoever.”

5.In the instance case, it is seen that the District Revenue Officer rejected the claim for community certificate on the ground that the petitioner's husband and daughter belonged to Hindu Kurumbar MBC Community. As held by this Court in the above said Division Bench Judgment, Kurumbar Community does not find place in the presidential notification for Scheduled Caste, Scheduled Tribe and even in the Most Backward Class notification. Therefore, the reference to Kurumbar Community by the first respondent is erroneous and untenable.

6.As rightly pointed by the learned counsel for the petitioner the petitioner submitted the community certificate of her brother, children and other family members



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in support of her claim that the petitioner belongs to Hindu Kuruman Scheduled Tribe community. It has been repeatedly held by the Division Bench Judgments of this Court and also the Judgment of the Hon'ble Supreme Court that once the certificate of close relatives particularly the parents are available and found to be valid the community certificate should not be rejected.

7.In the instance case, the petitioner has produced the certificate of the family tree issued by the Tahsildar, to establish the relationship. Though the respondent in the impugned order has stated that against the impugned order an appeal would lie to the State Level Scrutiny Committee, we are not inclined to drive the petitioner to the appellate forum.

8.We are of the view that the impugned order was passed on a misconception of the respondents as regards the Government Order's, particularly the letter dated 18.03.2014 of the Secretary to Government, Adi Dravidar and Tribal Welfare Department, Secretariat, Chennai – 9 addressed to All the District Collectors, instructing them to refrain from issuing community certificates as “Kurumbar” and to take necessary action for recalling the certificates already issued as “Kurumbar” and rectify the mistake. We therefore set aside the impugned orders. As the Community



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“Kurumbar” does not find place in the notified list of MBC/BC/De-notified communities and in the list of Scheduled Caste/Scheduled Tribes notified in the presidential orders, we direct the 1st respondent to independently verify the claim of the petitioner that she belongs to Scheduled Tribes (Kuruman's Community) on the basis of the materials to be placed before the 1st respondent and to consider the same by following the procedure in G.O.Ms.No.106 dated 15.10.2012. The said exercise shall be conducted within a period of six weeks from the date of receipt of a copy of this order.

9. Accordingly, this Writ Petition stands allowed. There shall be no order as to costs.

J.N.B.J., N.M.J.,
24.08.2023

Index : yes/no
Internet : yes/no
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To

1. The Collector,
Thirupattur,
Thirupattur District.

2. The Revenue Divisional Officer,

7/9



Thirupattur,
Thirupattur District.

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J.NISHA BANU, J.
&
N.MALA, J.
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