



W.P.No.22515 of 2023

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.22515 of 2023

S.Veerabathiran

... Petitioner

Vs.

The Sub Collector,
Dharmapuri,
Dharmapuri District.

... Respondent

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 order of rejection passed in Pa.Mu.A4/5235/2022 dated 12.09.2022 on the file of the respondent quash the same and direct the respondent to issue community certificate to the petitioner's daughters viz., 1) V.Sharumathi and 2) V.Lavanya that they belong to Kurumans (ST) Community based upon the community certificate already issued to the petitioner and pass such further or other order.

For Petitioner : Mr.S.Doraisamy

For Respondent : Mr.E.Vijayanand
Additional Government Pleader



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ORDER

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

This Writ Petition is filed to call for the records relating to the order of rejection passed in Pa.Mu.A4/5235/2022 dated 12.09.2022 on the file of the respondent quash the same and direct the respondent to issue community certificate to the petitioner's daughters viz., 1) V.Sharumathi and 2) V.Lavanya that they belong to Kurumans (ST) Community based upon the community certificate already issued to the petitioner and pass such further or other order.

2.According to the petitioner, he and his family members belong to Kuruman Community, which is classified as Scheduled Tribe Community. The petitioner obtained the community certificate from the Tahsildar, Omalur on 24.07.1987 and the same was issued to him after due enquiry. The petitioner submits that the above said community certificate issued to him is valid till date, as the same is not cancelled by any authority. The petitioner is said to have studied till 12th Standard. The petitioner applied for community certificate for his daughters V.Sharumathi and V.Lavanya on 15.07.2016 to the Revenue Divisional Officer, Harur. The petitioner along with the application annexed the following documents. 1.Petitioner's Community Certificate; 2.Petitioner's



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school Transfer Certificate; 3.School certificate of my children; 4.Community Certificate of my close relatives viz., S.Theerthagiri, Krishnamurthy, Jothi and Kumar; 5.State Level Scrutiny Committee report in respect of petitioner's close relatives S.Theerthagiri. As the Revenue Divisional Officer did not pass any order on the petitioner's application, the petitioner filed a writ petition in W.P.No.12717 of 2017, which was disposed of by this Court vide order dated 17.05.2017, wherein this Court directed the competent authorities to pass orders on the petitioner's application dated 15.07.2016, within a period of eight weeks from the date of receipt of the copy of that order.

3.It is only thereafter that the Revenue Divisional Officer, Harur passed orders on 13.10.2018, directing the petitioner to approach the respondent to get the Community Certificate. The petitioner thereafter approached the respondent for issuance of Community Certificate for his daughters. The respondent rejected the petitioner's claim for issuance of Community Certificate to his daughters on 12.09.2022 on the ground that the petitioner's relatives belong to Kurumbar MBC Community. According to the petitioner, the order passed by the respondent is illegal and arbitrary and against the Judgment of the Hon'ble Division Bench of this Court in W.P.Nos.25963 and 25964 of 2013 and W.P.No.1807 of 2013.



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4.The learned counsel appearing for the petitioner submitted that the petitioner applied for community certificate for his daughters on the basis of the community certificate issued to the petitioner. According to the learned counsel for the petitioner, the respondent rejected the application on the specious ground that the petitioner's relatives belong to Kurumbar MBC Community. The learned counsel drawing support from the judgment of the Hon'ble Division Bench of this Court in W.P.Nos.25963 and 25964 of 2013 and W.P.No.1807 of 2013 submitted that the respondent erred in rejecting the application of the petitioner, overlooking that there was no such community as "Kurumbar" either under the Scheduled Caste/Scheduled Tribe category and Most Backward Class category. The learned counsel further submitted that as the petitioner was issued with a community certificate which is valid till date, as the same was not cancelled, the respondent ought to issue the community certificate to his daughters on the basis of his community certificate.

5.The learned counsel appearing for the respondent on the other hand supported the impugned order stating that the petitioner and the family members of the petitioner belong to Kurumbar MBC Community.



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6. We have heard the learned counsels and we have perused the materials on record.

7. In the instant case, it is seen that the respondent rejected the application of the petitioner for community certificate for his daughters on the ground that the petitioner and the family members of the petitioner belong to Hindu Kurumbar Most Backward Class community. In this regard, the Judgment of the Hon'ble Division Bench of this Court in W.P.No.25963 & 25964 of 2013 can be usefully referred to. The Hon'ble Division Bench in the aforesaid writ petitions 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



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independently verify the claim as to whether the petitioner falls under 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.”

8.It is further to be noted that the Hon'ble Division Bench of this Court in W.P.No.1807 of 2013, while setting aside the certificate that the candidates belong to Kurumans Community directed the Revenue Divisional Officer to issue the Community Certificate that the candidate belong to Kurumans Scheduled Tribe Community. It is further relevant to note here that in pursuance of the Judgment of the Hon'ble Division Bench of this Court in W.P.Nos.25963 & 25964 of 2013, 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. The learned counsel for the petitioner is therefore justified in his submission that there is no community as



Kurumbar community and hence, the rejection of the petitioner's application by the respondent referring to the petitioner's community as Kurumbar community is untenable and erroneous. It is seen that in the earlier round of litigation on 17.05.2017 in W.P.No.12717 of 2017 this Court passed the following order :

“3.The petitioner made an application to the respondent on 15.07.2016 seeking Kurumans (ST) Community Certificate to his children, annexing therewith his community certificate. Finding no response to his application, the petitioner has come up with the instant writ petition seeking the relief stated supra. 4.Once the petitioner has been issued with Kurumans (ST) Community Certificate, there is no reason to take a contrary view in respect of the petitioner's children. However, the authority concerned, viz., the respondent, is the competent authority to verify the community status of the petitioner.

We, therefore, dispose of this writ petition with a direction to the respondent to pass orders on the petitioner's application dated 15.07.2016 within a period of eight weeks from the date of receipt of a copy of this order. No costs.”



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9. In spite of the aforesaid order of the Hon'ble Division Bench of this Court, the respondent has rejected the petitioner's application on a flimsy and untenable grounds. It is pertinent to note here that in the case of D.Ruthiran Vs. The Revenue Divisional Officer, Dharmapuri, this Court categorically held that the children derive the community of their parents and that if the parents were granted community certificate, without any further verification, the children were entitled to the same. It is further pertinent to note that the petitioner's close relative was also issued with the Kurumans Scheduled Tribe Community Certificate, which was verified by the State Level Scrutiny Committee.

10. In view of the aforesaid factual position, we are of the view that the impugned order cannot be sustained. We, therefore, direct the respondent to issue the community certificate to the petitioner's daughters on the basis of the petitioner's community certificate, within a period of four weeks from the date of receipt of a copy of this order.

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

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



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Index : yes/no

Internet : yes/no

Speaking order/Non-speaking order

To

The Sub Collector,
Dharmapuri,
Dharmapuri District.



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