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W.P.No.23000 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MRS. JUSTICE N.MALA**

W.P.No.23000 of 2023
and
WMP.No.22499 of 2023

D.Ravikumar

...Petitioner

Vs.

The Revenue Divisional Officer,
Tambaram, Chennai- 47.

...Respondent

Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent in its Na.Ka.No.2118/2023/E dated 25.07.2023 and quash the same and consequently direct the respondent to issue community certificate to the petitioner's minor son R.Vishaanth, to the effect that he belongs to the Hindu Konda Reddis community (Scheduled Tribe).



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For Petitioner : Mr.V.Vijaya Shankar

For Respondent : Mr.E.Vijay Anand
Additional Government Pleader

ORDER

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

Writ Petition is filed challenging the impugned order dated 25.07.2023, whereby, the respondent rejected the application of the petitioner for issuance of community certificate citing the G.O.(Ms).No.61, Adi Dravidar and Tribal Welfare (ADW-10) Department, dated 04.04.2006.

2. The case of the petitioner is that he is a permanent resident of Chennai for the past 20 years and that his family members belong to Konda Reddi community, which is a Scheduled Tribe community. The petitioner's father was issued with the community certificate by the Tahsildar, Kovilpatti, on 20.09.1977 and the petitioner was issued with the community certificate by Revenue Divisional Officer (RDO), Kovilpatti, on 08.06.2001 after due verification and enquiry.



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3. It is the petitioner's further case that several members of his family were issued with the community certificate by the Tahsildar/RDO in Kovilpatti village. Thus, there was overwhelming documentary evidence to substantiate that the petitioner and his family belonged to Konda Reddi community which is a Scheduled Tribe community. It is the further case of the petitioner that he was admitted to a degree course in Anna University and at that time his certificate was verified by the Collector, Tuticorin District and confirmed as genuine. The petitioner is presently working in a private company in Chrompet, Chennai.

4. While so, the petitioner applied for a community certificate for his minor son R.Vishaanth, who is aged about 10 years, as he required the same for admitting his son in Kendriya Vidyalaya School. As the school mandated the production of community certificate, the petitioner applied for the same on 30.03.2023 to the RDO, Tambaram, by enclosing all supporting documentary evidences especially community certificate of his father, himself, registered sale deeds and also community certificates of his close relatives. The petitioner was given to understand



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that the Village Administrative Officer (VAO) of Thiruneermalai Village and the Revenue Inspector of Pammal made local enquiries of the communal status of the petitioner and his family members and the enquiry made by the VAO and Revenue Inspector revealed that the petitioner and his family members belonged to the Konda Reddi community. While the petitioner was waiting for the issuance of the community certificate, he was shocked to receive the impugned order dated 25.07.2023 passed by the RDO rejecting his application citing G.O.(Ms).No.61, Adi Dravidar and Tribal Welfare (ADW-10) Department, dated 04.04.2006. The petitioner left with no other remedy filed the present writ petition challenging the impugned order.

5. The learned counsel for the petitioner submitted that the reliance placed by the respondent on G.O.(Ms).No.61, Adi Dravidar and Tribal Welfare (ADW-10) Department, dated 04.04.2006, for rejecting his application was misconceived and erroneous. The learned counsel further submitted that the Hon'ble Division Benches of this Court had set aside several orders, where G.O.(Ms).No.61, Adi Dravidar and Tribal Welfare (ADW-10) Department, dated 04.04.2006 was invoked to reject



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the community certificate. The petitioner's counsel further submitted that in the light of the abundant documentary evidence produced before the respondent, the respondent ought not to have rejected the application on the specious ground that the petitioner ought to approach the RDO, Kovilpatti, of the place of permanent abode of the petitioner, for issuance of certificate.

6. The learned counsel for the respondent on the other hand relied on G.O.(Ms).No.61, Adi Dravidar and Tribal Welfare (ADW-10) Department, dated 04.04.2006 and submitted that the revenue authority of one district was not competent to issue community certificate in respect of persons belonging to another district place of permanent abode. The learned counsel therefore submitted that there was absolutely no infirmity in the impugned order, as it was passed in confirmity with the G.O.(Ms).No.61, Adi Dravidar and Tribal Welfare (ADW-10) Department, dated 04.04.2006.

7. We have heard both the learned counsel and have perused the materials placed on record.



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8. The crux of the matter is whether the respondent was justified in invoking G.O.(Ms).No.61, Adi Dravidar and Tribal Welfare (ADW-10) Department, dated 04.04.2006, for rejecting the petitioner's application for issuance of community certificate for his minor son.

9. The admitted facts are that the petitioner originally belong to Kovilpatti village and his father was issued with the community certificate by the Tahsildar, Kovilpatti on 20.09.1977. The petitioner was also issued with the community certificate by the RDO, Kovilpatti on 08.06.2001. Therefore, from the community certificates of the petitioner and his father, it is clear that the petitioner belongs to Konda Reddi community (Scheduled Tribe). It is also undisputed that the petitioner migrated to Chennai in search of a job and has been in Chennai for more than 20 years and working in a private company. The petitioner decided to admit his son in Kendriya Vidyalaya School. According to the petitioner, the admission procedure mandated production of community certificate and therefore, he applied for the same to the RDO, Tambaram, respondent herein on 30.03.2023 for issuance of community certificate by enclosing all documentary evidences like



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community certificate of his father, himself and close relatives. The petitioner also produced the sale deeds in support of his claim. The Village Administrative Officer (VAO), Thiruneermalai Village, on enquiry, found that the petitioner's family belonged to Konda Reddi community (Scheduled Tribe). Even the report of the Revenue Inspector, pammal revealed the same status. The aforesaid reports were also forwarded to the respondent herein, but, in spite of the said reports and documentary evidences filed by the petitioner, the respondent rejected the application on the sole ground that the competent authority was the RDO of the place of the petitioner's permanent abode.

10. From the impugned order, it is seen that the respondent though referred to the community certificate issued to the petitioner by the RDO Kovilpatti, nevertheless rejected the same citing G.O.(Ms).No.61. The G.O.(Ms).No.61, Adi Dravidar and Tribal Welfare (ADW-10) Department, dated 04.04.2006 reads as follows:



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ABSTRACT

Adi Dravidar and Tribal Welfare – Issue of Scheduled Caste /Scheduled Tribes Community Certificates –Clarifications Orders – Issued.

Adi Dravidar and Tribal Welfare (ADW-10) Department

G.O. (Ms) No. 61

Dated. 04.04.2005.

Read :

- 1 Government of India Ministry of Home Affairs Letter No.BC/12025/2/76-SCT I dated **22.03.1977.**
- 2 From the Collector of Chennai District Letter ROC No.VI/5885/2004, dated 30.07.2004 and 14.10.2004
- 3 Government of India, Ministry of Tribal Affairs, New Delhi, Letter F.No.12015/37/2004-T.A.(RL) dated 04.03.2005

ORDER:

The Collector of Chennai, has brought to the notice of the Government the difficulties faced by Chennai District administration in issuing Scheduled Caste /Scheduled Tribes Community Certificate to the people migrated from other Districts and States.

2. As per the Government of India's instructions, the competent authority to issue Scheduled Caste /Scheduled Tribes Certificates should be the one, concerned with the locality in which, the persons applying for the certificate and his place of permanent abode, at the time of the notification of the relevant Presidential Order. Thus, the Revenue Authority of one District would not be competent to issue such a certificate in respect of persons belonging to another District.

3. In case of persons born, after the date of notification of the relevant Presidential Order, the place of residence for the purpose of acquiring Scheduled Caste/Scheduled Tribes status in the place of permanent abode, of their parents, at the time of notification of the Presidential Order, under which they claim to belong to such a caste/Tribe.



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4. In the letter 3rd read above, the Government of India has also clarified as "the place of permanent abode of their parents" as mentioned in the above circular first read above would mean:

Tribes
"The term their parents used in the said phrase, will include not only the parents, but also the grand-parents, subsequent genera also. Therefore, only a Scheduled Caste certificate is issued to a person, born after the date of notification of a particular Presidential Order, based on the permanent abode of his parents, then his children, grand-children, i.e. successive generation, will also continue to be entitled to claim the status of Scheduled Tribes in the state of their ancestors, who were residing on the date of notification of the particular Presidential Order".

5. The above instructions of Government of India should be strictly adhered to, while issue of Scheduled Caste/Scheduled Tribes certificates.

(By Order of the Governor)

M. ABUL HASSAN,
Secretary to Government.

11. From a reading of the above G.O., it is clear that the G.O was issued for administrative convenience. The G.O. refers to the Government of India's letters dated 22.03.1977 and 04.03.2005, to justify the issuance of the G.O. It is pertinent to note here that the respondent completely failed to note the context in which the Government of India letters dated 23.03.1977 and 04.03.2005 were issued. The Government of India letter dated 22.03.1977 was issued to clarify the legal position as



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regards the concept of residence. This clarification was necessitated because it was felt that there ought to be interstate area restriction for the purpose of community certificate. In other words, it was felt that a person migrating to another State, could not claim the benefit of reservation in the migrated State, even though the caste / Tribe was notified in the Presidential notification of the migrated State. This would be clear from the judgment of the Hon'ble Supreme Court in Action Committee Case (1994 (5) SCC 244) where the Government of India letter dated 22.03.1977 and other communication of Government of India were considered to hold that a person would be entitled to benefit of reservation in the state of his origin and not in the migrated state even if his caste was notified in the migrated State. It is further pertinent to note here that in the said letter, emphasis on the Revenue Authorities of the locality to which the individual belonged was made with a purpose, the purpose being that the Revenue Authority of the locality to which the person belonged would have access to the revenue records. The respondents failed to note that the interstate area restriction cannot be applied to intrastate areas, because, a legally issued caste certificate is valid throughout the state. Therefore, in the guise of administrative



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convenience, respondent cannot inconvenience the public, moreso, in the matter of constitutional privileges.

12. In the case on hand, it is not, as if the community certificate was being issued for the first time. As already stated abundant documentary evidences in the form of community certificates of the petitioner's father, petitioner, his close relatives and ancestral sale deeds were enclosed for claiming the communal status. If there was any doubt on the veracity of the said documents, then the respondent was at liberty to invoke G.O(Ms)No.106, Adi Dravidar and Tribal Welfare (CV-1) Department, dated 15.10.2012.

13. Similar orders were challenged before this Court, in a number of writ petitions and this Court held that reliance on the G.O. was unjustified. The following judgments in this regard may be referred to. In the order dated 10.07.2017 in W.P.No.17355 to 17357 of 2017 passed by the Division Bench of this Court in *Minor C.Muhil and two others V. The District Collector, Villupuram District and another*, in Paragraph no.10, it was observed as under:



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"10.A perusal of paragraph no.3 of G.O.Ms.No.61, Adi Dravidar and Tribal Welfare (ADW-10) Department dated 04.04.2005 would indicate that the place of permanent abode have been clarified and it is the categorical stand of the grandfather of the writ petitioners in the writ petitions (deponent of the affidavits in the writ petitions) that his permanent residence is at Palayapalapattu Village, Sankarapuram Taluk, Villupuram District and the 2nd Respondent has expressed the view that once the place of permanent abode is shifted, the concerned persons are not entitled for Community Certificates. However, this Court is of the view that the said reason is unsustainable for the reason that freedom of movement is enshrined and guaranteed in the Constitution of India and one cannot except a person to reside in his permanent abode for the purpose of eking out his livelihood and if that view is taken, it also belies logic and common sense and it would also introduce a new clarification / criteria, which is not contemplated under the Government Order. It is an undisputed fact that the deponent of affidavits – grandfather of the minor petitioners has been issued with a Community Certificate and vide proceedings of the Tamilnadu State Level Scrutiny Committee in No.29080/CV-II/2008 dated 01.03.2010, the same was found to be genuine."



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The said Judgment was followed by another Division Bench of this

Court in the case of *Elavarasi Vs. Government of Tamil Nadu and others*.

and in W.P.No. 17929 of 2017 *vide* Order dated 14.07.2017. In the case of

Minor Anusruthi vs The District Collector and another, it was held as

follows:

“7. It is also to be pointed out at this juncture that for the purpose of getting a Scheduled Tribe Community Certificate, one cannot be expected to remain in the permanent place of abode for the reason that to eke out the livelihood, it is open to the concerned person to shift the place of residence also and such a right is also guaranteed under Article 19 of the Constitution of India.”

14. The Madurai Bench of this Court in an Order dated 21.06.2023 under similar circumstances was pleased to set aside the impugned order by imposing cost of Rs.50,000/- on the State. Considering that this Court has time and again held that G.O.(Ms).No.61, Adi Dravidar and Tribal Welfare (ADW-10) Department, dated 04.04.2006 cannot be invoked for driving the petitioner to apply for community certificate in his place of permanent abode we set aside the impugned order.

15. We find that inspite of the above Division Bench judgments,



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the respondent continues to invoke G.O.Ms.No.61 dated 04.04.2006 to harass the applicants for issuance of community certificate.

16. We issue the following directions.

- i) Whenever an application is made for issuance of community certificate along with supporting documents, the RDO shall satisfy himself on the veracity of the documents and if satisfied shall issue the community certificate without driving the applicant to the competent authority of the applicant's permanent place of abode.
- ii) In case, the RDO entertains any doubt on the veracity of the documents filed by the applicant, he shall follow the procedure contemplated in G.O.(Ms).No.106, Adi Dravidar and Tribal Welfare (CV-1) Department, dated 15.10.2012 to ascertain the truth.
- iii) The Government shall take steps to sensitize the Revenue officials on the importance of community certificate and its value



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to the applicants.

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iv) It is seen that the officials in a mechanical manner and without reference to the legal position as borne out by the Division Bench judgments of this Court have been rejecting the applications. The officials are therefore directed to consider the application for community certificate adhering to the aforesaid judgments.

The community certificate is not a mere certificate, but it is a reflection of a person's communal identity. It enables the applicant to avail the benefits of reservation, which is extended to the notified communities to achieve the constitutional goal of equality and social justice.

17. In the light of the above discussions, the impugned order dated 25.07.2023 passed by the respondent is set aside. The case is remanded to the respondent for fresh consideration in the light of the documents produced by the petitioner. The respondents shall consider the application and pass orders within a period of four (4) weeks from the date of receipt of a copy of this order.



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With the above observations and directions, the writ petition is allowed. Consequently connected Miscellaneous Petition is closed.

There shall be no order as to costs. The Government is directed to circulate a copy of this judgment to the concerned departments so as to avoid future litigation arising out of G.O.(Ms).No.61, Adi Dravidar and Tribal Welfare (ADW-10) Department, dated 04.04.2006.

(J.N.B, J.) (N.M, J.)

10.08.2023

Index : Yes / No

Internet : Yes / No

Speaking order/Non-speaking order

Neutral Citation : Yes / No

dsn

To

The Revenue Divisional Officer,
Tambaram, Chennai- 47.



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J. NISHA BANU, J.
and
N.MALA, J.

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