



W.P.No.23638 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.23638 of 2023
and
W.M.P.Nos.23152 of 2023

G.Nirmala

.... Petitioner

vs

1. Union of India represented by
Union Territory of Puducherry,
by its Chief Secretary, Puducherry.

2. The Tahsildar,
Puducherry Taluk,
Puducherry.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the proceedings bearing No.5623/TOP/Certificates/2023 dated 08.06.203 on the file of the 2nd respondent and quash the same and consequently direct the 2nd respondent to issue caste/ community certificate to petitioner's daughter viz., Rosheni.N, certifying that she belonged to Vanniya' community having original from Puducherry on the basis of the caste/ community of her mother.

For Petitioner : Mr.T.Sathiyamoorthy

For Respondents : Dr.B.Ramaswamy,
Additional Government Pleader (Pondy)



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ORDER

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(The order of the Court was made by J.Nisha Banu,J.)

This writ petition has been filed to call for the entire records and to quash the proceedings of the 2nd respondent, Tahsildar, Puducherry Taluk, Puducherry in proceedings bearing No.5623/TOP/ Certificates/ 2023 dated 08.06.2023, for not granting 'Vanniyar' community certificate to the petitioner's daughter viz., Rosheni.N, and consequently, direct the 2nd respondent to issue 'Vanniyar' community certificate to the petitioner's daughter viz., Rosheni.N, on the basis of caste/community of her mother.

2. (i) The case of the petitioner is that the petitioner belongs to 'Vanniar' community. She was born in Puducherry and her father Govindasamy and his forefathers were also natives of Puducherry. The marriage between the petitioner and her husband Umasankar, who belonged to the same caste, took place on 02.06.2005. Out of wedlock, a female child, named Rosheni, was born to them on 12.05.2006 at Puducherry. The marriage between the petitioner and her husband was dissolved by decree of divorce dated 22.02.2010 made in M.O.P.No.78/2009 passed by Family Court, Puducherry. The petitioner is the guardian of her daughter, Rosheni and she is taking care of her and educating her. Her daughter joined L.K.G. at Acharya Bala



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Saksha Mandir School, Puducherry in the year 2009 and completed Higher Secondary in 2021 and completed 12th standard in the year 2023 in the same School.

(ii) Her daughter was also issued with a community certificate on 08.10.2021 by the 2nd respondent that she belongs to "Vanniar" community. After completion of 12th standard in May 2023, the Centralized Admission Committee for Admission to professional courses in Puducherry,(CENTAC), has invited application for admission to professional courses in the colleges in Puducherry. One of the conditions is to obtain a fresh community certificate for candidates claiming communal reservation. Therefore, the petitioner applied for issuance of fresh community certificate for her daughter, Rosheni. However, her application was rejected by proceedings dated 08.06.2023 stating that the petitioner had not produced any evidence to show the caste status of her daughter's father and there is no provision to issue caste/community certificate on the basis of mother's caste/community certificate. Hence, the present writ petition.

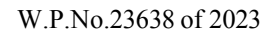
3. In similar circumstances, in the case of Schedule Caste community, the Division Bench of this Court has passed an order in W.P.No.9586 of 2014



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dated 04.09.2023 based on the order passed in the case of **P.Jeya. vs. Union of India(UOI)** reported in **AIR 2005 Mad 116**, in which, Paragraph Nos. 32 and 36, reads 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 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



(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....."

4. Therefore, the 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. However, writ appeal in W.A.No.1326/2005 was filed against the said order and the same was dismissed on 30.03.2010. Thereafter, Civil Appeal was also filed before the Hon'ble Supreme Court in C.A.No.9082 of 2014 and the same was also dismissed on 19.04.2023.

5. In the State of Puducherry, 'Vanniar' is considered as 'Most Backward Class' 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.

6. The facts put forth above would go to show that the petitioner, as a



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single mother, being a divorcee, brought up her daughter entirely in the State of Puducherry under her care and custody. The petitioner belongs to Puducherry and belongs to Most Backward Class (origin). Therefore, judgment of this Court will apply in all fours to the facts of the case.

7. Accordingly, this Writ Petition stands allowed. The respondents are directed to issue a caste certificate to the petitioner's daughter Rosheni, within a period of four(4) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B., J.) (N.M., J.)
09.10.2023

vsi

Index : Yes / No

Internet : Yes / No

Neutral citation : Yes / No

To

1. The Chief Secretary,
Union Territory of Puducherry,
Puducherry.
2. The Tahsildar,
Puducherry Taluk, Puducherry.



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