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W.P.No.30823 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2023

CORAM

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

W.P.No.30823 of 2023
and
W.M.P.No.30497 & 30498 of 2023

Minor Diya
aged about 14 years,
represented by her mother
Mrs.Dr.S.Mangani Mangalavalli
(Natural Guardian),
permanently residing at
No.7, VUI Cross Extension,
Anna Nagar, Nellithope,
Puducherry - 605 005.

.... Petitioner

vs

1. Union of India represented by
The District Magistrate cum District Collector,
Office of the District Collector,
Government of Puducherry,
First Floor, New Collectorate Building,
Vazudavoor Road,
Pettaiyanchathiram,
Puducherry - 605 009.
2. The Tahsildar,
Department of Revenue and Disaster Management,
Government of Puducherry,
Taluk Office,
Puducherry.



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3. The Deputy Tahsidar,
Department of Revenue and Disaster Management,
Government of Puducherry,
Taluk Office,
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 impugned order vide No.4358/TOP/C/2021 dated 10.10.2022 passed by the 2nd respondent and quash the same and consequently direct the respondent to issue Community Certificate to the petitioner indicating that she belongs to "Pallan" caste/Community, which is recognised as "Scheduled Caste" in Union Territory of Puducherry as per the Constitution (Pondicherry) Schedule Castes Order, 1950 based on the community Certificate issued in favour of the petitioner's mother and other family members of the petitioner's mother forthwith without any further delay.

For Petitioner : Mr.Prakash Adiapadam

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

ORDER

(Order of the Court was made by J.NISHA BANU, J.,)

This writ petition has been filed challenging the order of the 2nd respondent dated 10.10.2022, by which, the petitioner's request for issuance of community certificate, based on her mother's status was not considered



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and to direct the respondents to issue Community Certificate to the petitioner indicating that she belongs to "Pallan" caste/Community, which is recognised as "Scheduled Caste" in Union Territory of Puducherry as per the Constitution (Pondicherry) Schedule Castes Order, 1964 based on the community Certificate issued in favour of the petitioner's mother and other family members of the petitioner's mother forthwith without any further delay.

2. (i) The case of the petitioner is that the petitioner's mother is the resident of Puducherry and she was born and brought up in Puducherry and she belongs to Hindu "Pallan" Caste/Community which is recognized as 'Scheduled caste' in Union Territory of Pudcherry as per the Constitution (schedule castes) Order. The petitioner's father K.Ranjith Nagarajan is a native of Madurai and belongs to 'Veerakodi Velalar caste/Community. The marriage between the petitioner's father and mother was solemnized on 17.02.2006 and it was a love marriage. The petitioner was born on 26.11.2008. The marriage between petitioner's mother and father was dissolved on 09.08.2016 by order passed in MOP.No.165 of 2014 on the file of the Family Court at Puducherry. Right from childhood, the petitioner is brought up by her mother and grandparents in Puducherry and she studied from LKG to V standard in St.Joseph of Clunny Girls Higher Secondary



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School, Puducherry(State Board School) and from 6th standard to 8th standard in St.Joseph of Cluny(CBSC) School, Puducherry. Since the petitioner's mother got appointment as Assistant Professor in AIIMS. Bhubaneswar last year, she has taken the petitioner with her to Bhubaneswar and at present, the petitioner is studying 10th standard in Doons International School, CBSE, Bhubaneswar.

(ii)The petitioner's mother submitted application on 18.10.2021 before the respondents requesting to issue community, nativity and resident certificate that the petitioner belongs to Hindu 'Pallan' Caste/Community which is recognised as 'Schedule caste' in Union Territory of Puducherry, based on the community of the petitioner's mother. Since the same was not considered, the present writ petition is filed.

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 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



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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 their right to get a Scheduled Caste Certificate just for the simple reason that it is the origin of the father that would only be taken as a criteria and not the mother as per the impugned memorandum and in such event, such criteria fixed by the Government interpreting the G.O. and superseding to the earlier memorandum issued dated



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3.8.1995 which insisted that if either of the parents has the origin at Pondicherry, it is sufficient for their children to get a Scheduled Caste Certificate is within the parameters of the law and the constitutional rights guaranteed under the relevant Articles 14 and 15 of the Constitution of India, and therefore, it is necessary to have a little discussion on these Articles. 36. In result, (i) for all the above discussions held, the above writ petition stands allowed; (ii) the impugned memorandum issued by the first respondent in No.9 565/C2/Rev/2000 dated 10.11.2000, since being discriminatory within the meaning and import of Articles 14 and 15 of the Constitution of India, is declared unconstitutional;

(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 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....."



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4. Therefore, the conclusion of the learned Judge was that, as per the memorandum issued by the Government of Pondicherry on 03.08.1985, 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, 'Pallan' is considered as 'Scheduled Caste' 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 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 Scheduled Caste (origin). Therefore, judgment of this Court will apply in all fours to the facts of the case.



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7. Accordingly, this Writ Petition stands allowed. The respondents are directed to issue a caste certificate to the petitioner Minor Diya, 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.)

20.10.2023

vsi

Index : Yes / No

Internet : Yes / No

Note: Issue order copy on 31.10.2023

To

1. Union of India represented by
The District Magistrate cum District Collector,
Office of the District Collector,
Government of Puducherry,
First Floor, New Collectorate Building,
Vazudavoor Road, Pettaiyanchathiram,
Puducherry - 605 009.
2. The Tahsildar,
Department of Revenue and Disaster Management,
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