



W.P.Nos.33792 and 33794 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2023

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

W.P.Nos.33792 and 33794 of 2023
and WMP.Nos.33640 and 33642/2023

S.Deepan
S.Pavithra

.... Petitioner in WP.No.33792/2023
.... Petitioner in WP.No.33794/2023
vs.

The Revenue Divisional Officer,
Thiruvannamalai District.

.... Respondents in both petitions

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 10.05.2023 made in application Nos.TN-520230430668 and TN-520230430682 on the file of the respondent to quash the same and consequently direct the respondent to issue Kattunayakan Schedule Tribe Community Certificate to Petitioner on the basis of his father Community Certificate A6 1938/ 2000 dated 28.4.2000.

For Petitioners in both cases : Mr.N.Naganathan

For Respondent in both cases : Mrs.R.L.Karthika
Government Advocate



W.P.Nos.33792 and 33794 of 2023

WEB COPY

COMMON ORDER

Since the issue involved in both the writ petitions are one and the same, they are disposed of together by this common order.

2. These writ petitions have been filed to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 10.05.2023, on the file of the respondent to quash the same and consequently direct the respondent to issue "Kattunayakan" Schedule Tribe Community Certificate to petitioners on the basis of their father's Community Certificate.

3. According to the petitioners, their father obtained Hindu "Kattunayakan (ST)" Community Certificates. The said community certificate is valid as on date. However, when the petitioners' father applied for issuance of community certificate for their children, before the Revenue Divisional Officer, Villupuram, the same was not considered by the said Authority. Therefore, the petitioners' father had approached this Court by filing W.P. No.18591/2020 to consider the application and the same was disposed of with a direction to consider the application. In compliance of the said order, after



W.P.Nos.33792 and 33794 of 2023

conducting enquiry, the Revenue Inspector recommended the Tahsildar, Villupuram, to issue community certificate, however no order was passed. Since, the petitioners', as students, are mandated to submit their community certificates, they have uploaded an online application with relevant documents before the respondent to issue community certificate to them. The same was rejected. Hence, the present writ petition is filed with the aforesaid relief.

4. Learned counsel for the petitioners submitted that when their father was issued with "Kattunayakkan (ST)" Community Certificates and the same is valid as on date, the respondent ought to have issued community certificate to the petitioners.

5. The learned Government Advocate appearing for respondent submitted that since the petitioners' father has obtained certificate from Villupuram District, and the petitioners' are claiming community certificate from another district, their applications got rejected. Therefore, interference of this Court is not required in the impugned order.

6. Heard the learned counsel for the petitioner and the learned



Government Advocate appearing for the respondent.

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

8. Similar orders were challenged before this Court, in a number of writ petitions and this Court held in the order dated 10.07.2017 in W.P.No.17355



W.P.Nos.33792 and 33794 of 2023

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, wherein it was observed as under:

“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



W.P.Nos.33792 and 33794 of 2023

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.?"

9. Considering the facts and circumstances of the case and taking into account the submission made by the learned counsel on either side and the findings cited above, we are of the opinion that since "Kattunayakkan (ST) community" certificate was issued to the petitioners' father, there is no hurdle for the respondent in issuing community certificate as sought for by the petitioner to his children.

10. Accordingly, the impugned orders passed by the respondent are set aside and further we direct the respondent/ Revenue Divisional Officer, Thiruvannamalai District, to issue "Kattunayakkan (ST)" Community Certificate to the petitioners viz., S.Deepan and S.Pavithra, within a period of four weeks from the date of receipt of a copy of this order.

11. With the above direction, these Writ Petitions are disposed of. No costs. Consequently connected miscellaneous petitions are closed.



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W.P.Nos.33792 and 33794 of 2023

(J.N.B., J.) (N.M., J.)
22.12.2023

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Index : Yes / No

Internet : Yes / No

To:

The Revenue Divisional Officer,
Thiruvannamalai District.



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W.P.Nos.33792 and 33794 of 2023

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

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W.P.Nos.33792 and 33794 of 2023

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