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W.P.No. 35771 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2023

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS. JUSTICE N.MALA

W.P.No. 35771 of 2023

N.M.Ganesan

..Petitioner

Vs.

The Revenue Divisional Officer,
Tiruvallur,
Tiruvallur District.

..Respondents

Prayer: 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 order of rejection passed in Na.Ka.No.2576-2023-A2 dated 21.11.2023 on the file of the respondent, quash the same and direct the respondent to issue community certificate to the petitioner and his daughters viz. G.Girishma and G.Jahnavi that they belong to Kondareddis (ST) Community based upon the proceedings of the Registrar of Cooperative Societies, Madras in respect of petitioner's father's own brother N.Subramania Reddy and verification report of the District Collector, Madras dated 12.10.1992 in respect of petitioner's

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mother's own brother M.Karunakara Reddy.

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For Petitioner : Mr.S.Doraiswamy

For Respondents : Mrs.R.L.Karthika
Government Advocate

ORDER

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

This Writ Petition has been filed challenging the order dated 21.11.2023 passed by the respondent rejecting the community certificates of the petitioner and his daughters and consequently, direct the respondent to issue community certificate to the petitioner and his daughters, viz., G.Girishma and G.Jahnavi that they belong to Kondareddis (ST) Community, based upon the proceedings of the Registrar of Cooperative Societies, Madras, in respect of petitioner's father's own brother N.Subramania Reddy and verification report of the District Collector, Madras dated 12.10.1992 in respect of petitioner's mother's own brother M.Karunakara Reddy.

2. The case of the petitioner is that he is a permanent resident of Avadi, Chennai for the past 20 years and his family members belong to Kondareddis community, which is a Scheduled Tribe community.



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The petitioner's father's own brother N.Subramania Reddy was issued with the community certificate by the Tahsildar, Pallipet, on 20.09.1969 stating that he belongs to Kondareddis (ST) Community and the same was verified by the Collector, Chengelpattu and the petitioner's mother's own brother M.Karunakara Reddy was issued with the community certificate by Tahsildar, Purasawalkam- Perambur Taluk, Madras on 14.03.1973 after due verification and enquiry.

3. There was overwhelming documentary evidence to substantiate that the petitioner and his family belong to Kondareddi community which is a Scheduled Tribe community. While so, the petitioner is required of community certificate for his daughters' educational purpose. Therefore, he preferred an application to the respondent through online on 05.09.2023, requesting to issue community certificate to him and his daughters G.Girishma and G.Jhanavi that they belong to Kondareddis (ST) community. Meanwhile, the respondent insisted him to produce the documents manually. Therefore, the petitioner preferred an application on 31.10.2023 with the following documents:

1. Petitioner's School Transfer Certificate in which the community was



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mentioned as “Kondareddy”.

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2. School Transfer Certificate of his father's own brother N.Ramalinga Reddy in which the community mentioned as “Kondareddy”.
3. Proceedings of the Registrar, Co-operative Societies in respect of his father's own brother N.Subramania Reddy, in which the Collector concluded that he belongs to Kondareddis community.
4. Proceedings of the Collector, Harijan Welfare Department, Madras in respect of his father's own brother Ragava Reddy in which it was concluded that he belongs to Kondareddis community
5. Community Certificate of petitioner's mother's own brother M.Karunakara Reddy dated 14.03.1973 issued by the Tahsildar, North East and verification report of the Collector, Madras dated 12.10.1992 that his community certificate is genuine.
6. Order in W.P.No.19808 of 2023 in respect of his mother's own sister Manorama's Grand daughter, family tree certificate of his father's side and mother's side and Sale deed in the year 1965, in which, the community is mentioned as Kondareddis.

However, the respondent without issuing any notice and conducting any



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enquiry, passed an order that the petitioner have to get the certificate only from his native place. Aggrieved by the same, the present writ petition.

4. Learned counsel appearing for the petitioner submitted that the petitioner enclosed all the supporting documentary evidences especially community certificate of his father's own brother and mother's own brother, registered sale deeds and also community certificates of his close relatives etc. Learned counsel would further submit that in the light of abundant documentary evidence produced before the respondent, the respondent ought not to have rejected the application on the ground that the petitioner ought to approach the place of permanent abode of the petitioner, for issuance of certificate.

5. The learned Government Advocate appearing 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



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with the G.O.(Ms).No.61, Adi Dravidar and Tribal Welfare (ADW-10)

Department, dated 04.04.2006.

6. We have heard the learned counsel appearing on either side and have perused the materials placed on record.

7. 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 him and his daughters.

8. On perusal of the records, it is seen that the community certificates was issued to the petitioner's father's own brother and petitioner's mother's own brother that they belong to Konda Reddi community (Scheduled Tribe). It is also an undisputed fact that the petitioner has been residing at Chennai for more than 20 years. The petitioner is in need of community certificate for his daughters' educational purpose. According to the petitioner, the admission procedure mandated production of community certificate and therefore, he applied for the same through online on 05.09.2023 for issuance of community certificate by enclosing all documentary evidences like community certificate of his father's own brother,



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mother's own brother and close relatives. The petitioner also produced the sale deeds in support of his claim. The aforesaid documents and 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 petitioner's application on the ground to approach the competent authority/RDO insisting to get the certificate from his native place.

9. From the impugned order, it is seen that the respondent though referred the community certificates issued to the petitioner's close relatives by the competent authority, nevertheless rejected the same citing G.O.(Ms).No.61, Adi Dravidar and Tribal Welfare (ADW-10) Department, dated 04.04.2006.

10. It is clear that the G.O.(Ms).No.61, Adi Dravidar and Tribal Welfare (ADW-10) Department, dated 04.04.2006 was issued for administrative convenience. The said 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



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was issued to clarify the legal position as 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 the 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



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

11. 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's own brother, mother's own brother and his close relatives and 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.

12. 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 Division Bench of this Court vide order dated 10.07.2017 made in W.P.No.17355 to 17357 of 2017 in *Minor C.Muhil and two others V. The District Collector, Villupuram District and another*, in paragraph No.10, has observed as under:

*“10.A perusal of paragraph no.3 of G.O.Ms.No.61,
Adi Dravidar and Tribal Welfare (ADW-10)*



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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,



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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.”

13. The said Judgment was followed by another Division Bench of this Court in the case of *Minor Anusruthi vs The District Collector and another* in W.P.No. 17929 of 2017 vide Order dated 14.07.2017 wherein 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



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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. In the light of the above discussions, the Writ Petition is allowed. The impugned order dated 21.11.2023 passed by the respondent is set aside and the respondent is directed to issue community certificate to the petitioner and his daughters viz. G.Girishma and G.Jahnavi that they belong to Kondareddis (ST) Community based upon the proceedings of the Registrar of Cooperative Societies, Madras in respect of petitioner's father's own brother N.Subramania Reddy and verification report of the District Collector, Madras dated 12.10.1992 in respect of petitioner's mother's own brother M.Karunakara Reddy. The said exercise shall be done within a period of four



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(4) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

(J.N.B.,J.) (N.M.,J.)
21.12.2023

Index : Yes / No
Speaking Order : Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
msv

To

The Revenue Divisional Officer,
Tiruvallur,
Tiruvallur District.



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J.NISHA BANU,J.
And
N.Mala,J.

msv

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