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W.P.(MD)Nos.4219 & 4222 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2023

CORAM:

**THE HON'BLE MR.T.RAJA, THE ACTING CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR**

**W.P.(MD)Nos.4219 & 4222 of 2023
and W.M.P(MD)Nos.4007 & 4009 of 2023**

S.Nithya

... Petitioner in
both W.Ps.

-VS-

1.The District Collector,
Trichy District,
Trichy.

2.The Revenue Divisional Officer / Sub Collector,
Trichy, Trichy District.

3.The Tahsildar,
Thiruverumbur Taluk,
Trichy District.

... Respondents in
both W.Ps.

COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Rejection Order dated 08.11.2022 passed by the 2nd respondent with respect to the petitioner's application Nos.TN-5202210315973 and TN-5202210315882 and quash the same and consequently directing the respondents to issue Kattunayakan Community Certificate to the petitioner's son and daughter namely "S.N.Shaswat Rahav" and "S.N.Isana" respectively.



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W.P.(MD)Nos.4219 & 4222 of 2022



For Petitioner : Mr.K.Mahendran
(In both W.Ps)

For Respondents : Mr.M.Sarangan,
(In both W.Ps) Addl. Government Pleader

COMMON ORDER

**[Order of the Court was made by
The Hon'ble The ACTING CHIEF JUSTICE]**

Petitioner, who is a resident of Kailash Nagar, Pappakurichi, Thiruverumbur Taluk, Trichy District has filed these Writ Petitions, challenging the Rejection Order dated 08.11.2022 passed by the 2nd respondent with respect to the petitioner's application Nos.TN-5202210315973 and TN-5202210315882, with a consequential direction, directing the respondents to issue Kattunayakan Community Certificate to the petitioner's son and daughter namely “S.N.Shaswat Rahav” and “S.N.Isana” respectively.

2. Learned counsel for the petitioner would submit that the petitioner's father viz., R.Subbiah, originally obtained a Kattunayakan Community Certificate from the Revenue Divisional Officer / Sub Collector, 2nd respondent herein. Subsequently as per the G.O.Ms.No.



1773, dated 23.06.1984, the SC & ST Amendment Act 1976, the petitioner's father also obtained a Kattunayakan Community Certificate from the 2nd respondent by his proceedings in R.C.A1/4095/2003, dated 06.10.2003. Based on the same, the petitioner also obtained a Kattunayakan Community Certificate from the 2nd respondent by his proceedings in R.C.A1/4095/2003, dated 04.06.2003. He would further submit that the petitioner's husband belongs to 'Pallar Community', which is a Scheduled Caste (SC) Community. Therefore, the petitioner applied for Community Certificate for her son and daughter during the year 2019 and on receipt of the same, the 2nd respondent directed the Thasildar, 3rd respondent herein to submit a report regarding the issuance of Kattunayakan Community certificate to the petitioner's son and daughter. Thereafter, the 3rd respondent by his proceedings in Na.Ka.A2-2024-2019, dated 14.06.2019, sent a report to the 2nd respondent. He would further submit that the 2nd respondent sent a communication to the petitioner by his proceedings in O.Mu.A3/2240/2019, dated 14.03.2022, stating that as per the District Collector proceedings No.Na.Ka.G4/3255/2020, dated 31.08.2021, all the person who applied for ST certificate can apply for only through online. Accepting the same, the petitioner also made applications to the 2nd respondent on 31.10.2022 through online along with all



necessary documents seeking for issuance of Kattunayakan Community Certificate to her son and daughter namely “S.N.Shaswat Rahav” and “S.N.Isana” respectively. The petitioner has also given a declaration declaring that she never get any benefits from her husband's community.

3. The learned counsel appearing for the petitioner would further submit that there is a Government Order in G.O.Ms.No.477, dated 27.06.1975, in which the Government after carefully examining the question, declared as follows:

“the children born of inter-case marriage, that is marriages-

(i) between a person of a Scheduled Tribe and another of a Scheduled Caste or Backward Class or forward Class;

(ii) between a person of a Scheduled Caste and another of a Backward Class or forward Class; and

(iii) between a person of a Backward Class and of a forward Class

shall be considered to belong to either the community of the father or the community of the mother according to the declaration of the parents regarding the way of life in which the children are brought up and that the declaration in respect of one child will apply to all children.”

In the present case, the petitioner has given a declaration that she belongs to Kattunayakan Community and therefore, Kattunayakan Community



Certificate should be issued to her son and daughter for the reason that the second respondent had also issued Community Certificate to the petitioner and his father. Hence, the second respondent cannot hesitate or refuse to issue the same. However, the second respondent, without application of mind, has erroneously rejected the request of the petitioner through the impugned order dated 08.11.2022. Hence, the petitioner has filed these Writ Petitions.

4. Heard the submissions of the learned Additional Government Pleader appearing for the respondents and perused the records available on record.

5. On a perusal of the records, it is seen that the petitioner and her father were issued with Kattunayakan Community Certificate. Further, the petitioner belongs to Kattunayakan Community, which is a Schedule Caste (ST) Community and her husband belongs to Pallar Community, which is a Scheduled Caste (SC) Community. In such circumstances, there are two Government Orders issued by the Government. In G.O.Ms.No.477, dated 27.06.1975, the Government declared as follows:

“the children born of inter-caste marriage, that is marriages-



(i) between a person of a Scheduled Tribe and another of a Scheduled Caste or Backward Class or forward Class;

(ii) between a person of a Scheduled Caste and another of a Backward Class or forward Class; and

(iii) between a person of a Backward Class and of a forward Class

shall be considered to belong to either the community of the father or the community of the mother according to the declaration of the parents regarding the way of life in which the children are brought up and that the declaration in respect of one child will apply to all children.”

6. In addition to, the State Government has also issued a latest Government Order in G.O(MS)No.08, Backward Classes, Most Backward Classes and Minorities Welfare (BCC) Department, dated 09.02.2021. The relevant portion of the said Government order is extracted hereunder:

“3. The Government after careful examination hereby clarifies that the children born out of marriage between parents of two different castes shall be considered to belong to either the caste of the father or the caste of the mother based on the declaration of the parent/s.”

7. When the 2nd respondent who has been always dealing with the issues like the one brought before this Court, he is expected to know the



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Government Orders issued by the Government in the matter of issuance of Community Certificate. The second respondent Revenue Divisional Officer having been entrusted with solemn obligation to redress the grievance of the citizens, appears to have neglected the said duty. The petitioner claims that when the same Revenue Divisional Officer has issued similar community certificates to his father, such certificate has not been issued to her son and daughter. The Revenue Divisional Officer in this case could have initiated summary enquiry to ascertain minimum facts whether the petitioner claiming to be a Kattunaicken community is true or not. In our considered opinion, had the Revenue Divisional Officer applied his mind, he could have unearthed the truth of the community status of the petitioner effortlessly. This apart, the Revenue Divisional Officer should also realise that arbitrary refusal of genuine prayer would result in unnecessary litigation. When the aforementioned two Government Orders are all clearly guiding to ascertain whether the petitioner belongs to Kattunaicken community, the application of the petitioner could have been easily disposed of. This exercise, in our view, regrettably has not been discharged. Therefore, we are inclined to impose the cost of Rs.50,000/- to the second respondent.



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8. The learned Additional Government Pleader appearing for the respondents has requested this Court to reduce the cost of Rs.50,000/- to Rs.10,000/-. Hence, at his request, we are reducing the cost to Rs.10,000/- (Rs.5,000/- in each Writ Petition) on the second respondent.

9. In view of the above, the rejection order dated 08.11.2022 passed by the 2nd respondent with respect to the petitioner's application Nos.TN-5202210315973 and TN-5202210315882, are quashed and accordingly, these Writ Petitions are allowed. The matters are remitted back to the 2nd respondent for passing fresh orders and the 2nd respondent shall consider the applications of the petitioner afresh and pass orders in accordance with law. The 2nd respondent is directed to pay the cost of Rs.10,000/- (Rs.5,000/- in each Writ Petition) to Legal Aid Service Authority attached to this Bench. No costs. Consequently, connected miscellaneous petitions are closed.

[T.R., A.C.J.] [D.K.K., J.]
02.03.2023

NCC : Yes / No
Index : Yes / No
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To

- 1.The District Collector,
Trichy District,
Trichy.
- 2.The Revenue Divisional Officer / Sub Collector,
Trichy, Trichy District.
- 3.The Tahsildar,
Thiruverumbur Taluk,
Trichy District.

W.P.(MD)Nos.4219 & 4222 of 2021





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W.P.(MD)Nos.4219 & 4222 of 2023:

T.RAJA, A.C.J.
and
D.KRISHNAKUMAR, J.

vsm

ORDER MADE IN
W.P.(MD)Nos.4219 & 4222 of 2023

DATED : 02.03.2023