



WP(MD)No.17471 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **17.10.2023**

CORAM

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.(MD)No.17471 of 2021

P.Sathya

...Petitioner

/Vs./

1.The District Collector,
Collector's Office,
Dindigul District.

2.The District Supply Officer,
Co-operation, Food and Consumer Protection Department,
District Collector's Office,
Dindigul District.

3.The Taluk Supply Officer,
Dindigul East Taluk,
Natham Road,
Dindigul District.

4.N.Muniappan

...Respondents

PRAYER:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of certiorarified mandamus calling for the records in letter Na.Ka.No.44/2021, dated 03.09.2021 on the file of the 3rd respondent and quash the same, and also directing the respondents 1 to 3 to remove the names of the petitioners' children namely 1.Gayathri (13 years old) and 2. Harish Boopathy (11 years old) from the Ration card of the 4th respondent.



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For Petitioner : Mr.V.Nagendran

For Respondents : Mr.B.Saravanan (R1 to R3)

Additional Government Pleader

ORDER

This writ petition has been filed challenging the proceedings of the third respondent dated 03.09.2021 and for a consequential direction to the respondents 1 to 3 to remove the names of the children, namely, Gayathri (13 years old) and Harish Boopathy (11 years old) from the ration card that was issued in favour of the fourth respondent.

2. The petitioner and the fourth respondent married on 11.02.2008 and through the marriage, they had two children, named Gayathri and Harish Boopathy. Due to some difference of opinion between the petitioner and the fourth respondent, the same ended in filing of divorce petition before the III Additional Sub Court, Madurai in HMOP No.152 of 2020 by the petitioner. This divorce petition was contested and the Additional Sub Court, Madurai, by judgment and decree dated 01.02.2021, the marriage between the petitioner and the fourth respondent was dissolved. This order also became final.



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3. The petitioner was taking care of the children right from the beginning and only she was providing education and other necessities to the children. The grievance of the petitioner is that the ration card that was issued in the name of the fourth respondent contained the names of the children. The petitioner made a representation to remove the names of the children from the ration card that was given to the fourth respondent and to add the names of the children in the new ration card that was applied by the petitioner. This representation came to be rejected by the third respondent through the impugned proceedings dated 03.09.2021. Aggrieved by the same, the present writ petition has been filed before this Court.

4. The third respondent has filed a counter affidavit and he has taken a stand that notice was issued to the fourth respondent and inspite of the same, the fourth respondent did not cooperate for the enquiry. That apart, order passed by the Additional Sub Court, Madurai did not make any mention as to who will be the guardian for children. Therefore, the third respondent decided not to remove the names of the children from the ration card that was issued to the fourth respondent. Accordingly, the third respondent has sought for dismissal of this writ petition.



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5. Heard Mr.V.Nagendran, learned counsel for the petitioner, Mr.B.Saravanan, learned Additional Government Pleader for the official respondents.

6. The fourth respondent has been issued notice and his name has also been printed in the cause list and there is no appearance either in person or through counsel. The short issue that arises for consideration in the present writ petition is as to whether a direction must be issued to the respondents to remove the name of the children from the ration card that was issued in favour of the fourth respondent.

7. The materials placed before this Court clearly reveal the fact that the children have always been under the care and guidance of the petitioner. To substantiate the same, it will be relevant to take note of the deposition of the fourth respondent in HMOP No.152 of 2020, wherein the fourth respondent has categorically admitted that both the children right from their birth were taken care only by the petitioner. It can also be seen that the children were only living with the petitioner and not with the fourth respondent. The marriage between the petitioner and the fourth respondent has been dissolved by the Court through the judgment dated 01.02.2021 and this judgment has become final.



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8. Insofar as adding the names of the dependants of the head of the family, the officials will have to physically verify as to whether the dependants are actually living with the head of the family. Initially, the ration card was given in favour of the fourth respondent and at that point of time, the fourth respondent was living with the petitioner and the children have also been taken care. Subsequently, there was a misunderstanding and the children started living with the mother. Therefore, the children were no more dependants and were not taken care by the fourth respondent. Literally the petitioner has now become a single parent, who is taking care of the children. The rights of the single parent are now recognized by the Courts and an useful reference can be made to the judgment of the Hon'ble Apex Court in the case of *ABC vs. State (NCT of Delhi)* reported in *2015 (5) MLJ 496 (SC)*.

9. The Kerala High Court also had an occasion to deal with the right of a single parent to act as a guardian for the child and the Kerala High Court had held that in such circumstances, the single mother cannot even be compelled to disclose the identity of the putative father. A useful reference can be made to the judgment of the Kerala High Court in the case of *Xxxxxx and another vs. The Registrar of Births and Deaths Pathanamthitta Municipality, Central Junction, Pathanamthitta, Kerala and Others* reported in *2022 (3) KLJ 645*.



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10. In the instant case, the petitioner is taking care of the children and she wants their names to be added in the ration card and has been applied afresh in this regard. For this purpose, the names of the children will have to be deleted from the ration card that has already been issued to the fourth respondent. The official respondents are not considering the issue of guardianship in this case and they are only supposed to see as to whether the names of the children who were added in the ration card are really the dependants of the concerned person in whose favour ration card was issued. In this case, the children are not the dependents of the fourth respondent and therefore, there is no requirement to continue to show the names of the children in the ration card that has been issued to the fourth respondent.

11. In view of the above discussion, the impugned proceedings of the third respondent dated 03.09.2021 is hereby quashed. There shall be a direction to the third respondent to remove the names of the children, namely, Gayathri and Harish Boopathy from the ration card that was issued to the fourth respondent and to add their names in the fresh ration card to be issued to the petitioner. This process shall be completed by the third respondent within a period of six weeks from the date of receipt of a copy of this order.



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12. In the result, this writ petition is allowed with the above directions.

No costs.

17.10.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
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TO:-

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- 2.The District Supply Officer,
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N.ANAND VENKATESH, J.

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Order made in
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