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W.P.No.8958 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.8958 of 2024

and

W.M.P.No.9977 of 2024

Gayathri @ Zara

... Petitioner

Vs.

1.The Sub-Collector (Revenue) South,
Revenue Complex, South Car Street,
Villianur, Puducherry – 605 110.

2.The Tahsildar-cum-Executive Magistrate,
Revenue Complex, South Car Street,
Villianur, Puducherry – 605 110.

3.The Director,
Directorate of Health and Family Welfare Services,
Main Block of the Old Maternity Hospital Complex,
Victor Simonel Street, Puducherry – 605 001.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records on the



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file of the 1st respondent in Proceedings No.1249/SCRS/B7/Cert-Appeal/2024/464, dated 06.03.2024, and quash the same as illegal, incompetent and devoid of jurisdiction and to direct the 1st respondent to issue an Extremely Backward Class Certificate to the petitioner.

For Petitioner : Mr.Avinash Wadhwani
For Respondents : Mr.A.Tamilvanan
Additional Government Pleader
(Pondicherry)

ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

The rejection of petitioner's request for issuance of Community Certificate showing that she belongs to Extremely Backward Class (EBC), is under challenge in this writ petition.

2.The petitioner is a native of Puducherry and it is her case that she belongs to “Paruvatha Rajakulam” Community. It is not in issue that this community is categorised as Extremely Backward Class (EBC) by the Government of Puducherry. It is the case of the petitioner that the petitioner appears to have married a Muslim as per the Muslim rites and rituals on



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23.06.2019. The petitioner thereafter changed her name from Gayathri to

Gayathri @ Zara.

3.The 3rd respondent, by a notification dated 27.09.2023, invited applications for direct recruitment to the post of Nursing Officer in the Directorate of Health and Family Welfare Services, Puducherry. The petitioner states that she was provisionally selected as one of the candidates under EBC Category. When the petitioner applied for a Community Certificate to show that she belongs to “Paruvatha Rajakulam” Community which falls under EBC, the same was rejected by the 2nd respondent. The petitioner challenged the order of the 2nd respondent by preferring an appeal before the 1st respondent. The 1st respondent also dismissed the appeal filed by the petitioner by the impugned order. Challenging the same, the petitioner has preferred the above writ petition.

4.By the impugned order, the 1st respondent has admitted that the petitioner belongs to “Paruvatha Rajakulam” Community. However, the order of 2nd respondent was confirmed by the 1st respondent by holding as



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follows :

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“AND WHEREAS, on perusal of the documentary evidences and on hearing the statements of the appellant and the Tahsildar, Taluk Office, Villianur, it is evident that Tmt.Gayathri @ Zara, W/o.Mohammed Nasar had converted from Hindu to Muslim religion during the year 2019 and changed her name in the official gazette and other documents such as Aadhaar and EPIC as Gayathri @ Zara in the same year. Further, there are no guidelines or rules issued by the Government of Puducherry for issuance of Community Certificate for the cases of conversion from Hindu to Muslim religion;

NOW, THEREFORE, I, SOMA SEKHAR APPARAO KOTAU, I.A.S., SUB COLLECTOR (REVENUE) SOUTH after perusing the statements adduced by the appellant and the Tahsildar, Taluk Office, Villianur and based on other documentary evidences and facts placed before me is satisfied that the request for issuance of Extremely Backward Classes (EBC) Certificate to the appellant Tmt.Gayathri @ Zara W/o.Mohammed Nasar is void of merits. The decision of the Tahsildar, Taluk Office, Villianur is upheld. Accordingly, the appeal stands disposed of.”



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5.The grievance of the petitioner is that the community status of the petitioner will not change merely because the petitioner has converted to Islam religion. Even though the impugned order reads as if the petitioner, because of the conversion, is not entitled to get her community status declared as she belongs to EBC, the decision is not supported by any Government Order or Statute. When a person converts from Hinduism to Christianity or Islam, the community status does not change. Article 25 of the Constitution of India recognizes freedom of conscience and a person can practice and profess any religion. Unless there is a Statute or an order in exercise of a Statutory power or order by an authority competent to pass such order under a Statute justifying discrimination based on religion, the conversion of petitioner cannot be cited as a reason to deny her the privilege as a person belonging to EBC Category.

6.It is not in dispute that the petitioner belongs to “Paruvatha Rajakulam” Community. The said community also comes under EBC Category. However, the petitioner was denied Community Certificate to show that she belongs to EBC only by citing conversion as a reason. A



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person cannot be discriminated on the basis of religion or conversion, unless there is a Statutory Rule or Government Order in exercise of the power conferred on the Government under Constitution or by Law. It is open to the respondents to have a policy on their own, if it is permissible in law, to deny the benefit of Community Certificate as EBC by conversion. In the absence of a Statute or a policy decision of the State indicating conversion as a disqualification for claiming community status as EBC, the impugned order cannot be sustained. Therefore, the impugned order is set aside.

7.As a consequence, the respondents are directed to issue Community Certificate to the petitioner showing that the petitioner belongs to “Paruvatha Rajakulam” Community, which is listed under Extremely Backward Classes (EBC) Category. Accordingly, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R., J.) (N.S., J.)
17.04.2024

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Index : Yes / No
Neutral Citation : Yes / No

To



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