



W.P. No.17057 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.17057 of 2024
and
W.M.P. No.18801 of 2024

D. Kanagamani

Vs

... Petitioner

1. The District Collector,
Puducherry.

2. The Sub Collector (Revenue) South,
Villanur, Puducherry.

3. The Tahsildar cum Executive Magistrate,
Taluk Office,
Villanur Taluk,
Puducherry.

4. The Director,
Directorate of Health and Family Welfare Services,
Government of Puducherry,
Victor Simmonel Street,
Old Maternity Hospital Building,
Puducherry – 605 001.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the 2nd respondent in proceedings No.1699/SCRS/B7/Cert-Appeal/2024/837, dated 09.05.2024, quash the same and consequent direct the respondents 1 to 3 to issue a residence certificate to the petitioner.

For petitioner : Mr.G. Rajagopalan,
Senior Counsel for Mr.P. Maurya
For respondents : Mr.V. Vasanthakumar,
Addl. Govt. Pleader (P)

ORDER

The petitioner herein has challenged the proceedings of the 2nd respondent in Proceedings No. 1699/SCRS/B7/Cert-Appeal/2024/837, dated 09.05.2024 and quash the same and consequently direct the respondents 1 to 3 to issue a residence certificate to the petitioner.

2. It is stated that the petitioner born on 09.02.1995 in Sankarapuram, Villupuram District and thereafter her parents relocated to Union Territory of Puducherry in the year 2008 and having been residing there ever since. It is further stated that the petitioner's parents purchased house at Kalitheerthalkuppam, Puducherry and as such they are having their



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permanent residency proof at that address. The petitioner did her Schooling and College in Puducherry and at that time, a residence certificate was also obtained. Subsequently, she married one K. Thirumalraja from S. Pudur in Vikkaravandi Taluk and thereafter moved to Telangana State, due to her husband's employment. Thereafter, due to Covid Pandemic restriction, she was forced to continue their life in Telangana. During the year 2021, she gave birth to a child at Rajiv Gandhi Women and Children Hospital, Puducherry and continued her life in Puducherry. Subsequent to the notification issued by the 4th respondent, she applied for the post of nursing officer (Group B Technical Non Gazetted) and got selection in the year 2024. Pursuant to above selection, the 4th respondent insisted the petitioner to submit residence certificate and she approached the VAO, Villanur. However, the aforesaid request made by her was rejected by the VAO and revenue Inspector, Villanur Taluk on the ground that her husband belonged to Vikaravandi Taluk, Villupuram District. Thereafter she approached the 3rd respondent and who in turn sought necessary clarification from the Tahsildar, Vikaravandi Taluk. Subsequently, the Tahsildar, Vikaravandi, after conducting investigation confirmed that the petitioner is not residing at



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her husband's address at Vikaravandi, but however, the 3rd respondent rejected the request based on the report of the VAO, Villanur on the ground that the petitioner was not residing permanently in Puducherry and stated the aforesaid place of shift done by the petitioner. Aggrieved by the said order, she preferred appeal before the 2nd respondent, who in turn mechanically, upholding the order of the 3rd respondent and denied the residence certificate. Challenging the Proceedings dated 09.05.2024 issued by the 2nd respondent, this writ petition has been filed.

3. Learned counsel for the petitioner submitted that the petitioner hails from Puducherry and due to husband's employment, she moved from Puducherry for a short time. He further submitted that the 2nd respondent failed to note the recordal documents at the domicile place and the said denial of residence certificate by the 2nd respondent is non-est of law. The VAO, Villanur initially refused to entertain her request for issuance of residence certificate and which is the basis for subsequent rejections made by the authorities concerned, that too, without application of mind the 2nd respondent has upheld the order of the 3rd respondent, which is arbitrary and illegal. He drew the attention of this Court to para 2(i) the G.O. Ms. No.48,



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dated 12.12.2002 and the Order issued by the Revenue Department, dated 06.10.2003, wherein it was stated that while computing the period of actual residence, temporary absence for education, job etc. shall be ignored. Hence, he prays for quashment of the Proceedings, dated 09.05.2024 passed by the 2nd respondent and for consequential direction to the respondents 1 to 3 to issue Residence Certificate, within a time frame to be fixed by this Court and on that score, this writ petition may be allowed.

4. Denying the contentions raised by the learned counsel for the petitioner, Mr.V. Vasantha Kumar, learned Additional Government Pleader(P) submitted his arguments based on the counter affidavit filed by the 2nd respondent. More specifically, he drawn the attention of this Court to Para Nos.8 to 16 and submitted that the petitioner is not the permanent resident of Puducherry. He vehemently argued that mere possession of evidences like Ration card, EPIC Card or previous certificate, etc. are not the sole criteria for issuance of residence certificate and the actual and physical residence of the petitioner / parents / Guardian is essential. Therefore, all these aspects were taken note by the 2nd respondent before issuing the proceedings, which is impugned herein for rejection of residence



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certificate to the petitioner and thus, the same is legally sustainable and, accordingly, he prays for dismissal of this writ petition.

5. This Court bestowed its best attention to the contentions advanced by the learned counsel on either side and perused the materials available on record.

6. The facts in the case is not in dispute. The issue involved is in narrow compass. There is mechanism provided for determination of the residents in the Union Territory of Pondicherry in Circular of the Revenue Department No.6260/C2/Rev/ 2003 dated 06.10.2003 and the relevant portion reads as follows :

“(1)DETERMINATION OF THE “RESIDENTS” IN THE UNION TERRITORY OF PONDICHERRY.

The following shall be the criteria prescribed for determining persons as Residents of this Union Territory:

(i)The candidate or whose parent(either Mother or Father or Both) or Guardian (in the case of Children who have lost both the parents) has been residing continuously in this Union Territory for atleast five years preceding the date of application.

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(2)Further the certificate-issuing authorities are instructed to strictly adhere to the following instructions in deciding the resident status of the applicants, namely:

(i)While computing the period of actual residence, temporary absence for education, job etc., shall be ignored. In cases where the parents have gone abroad for the purpose of employment, then the residence of Grand parents in the U.T. of Pondicherry may also be taken for the issue of Residence Certificate for study purpose only to their Grand Children in exceptional and genuine cases, where the children reside with grand parents and are studying in recognized educational institutions in the U.T. Of Pondicherry.

(ii)The actual and physical residence of the applicant/parent/ Guardian is essential. But, mere possession of evidences like Ration Card, EPIC Card or previous certificate etc. are not the sole criteria for issuance of the Residence Certificate. At the same time, such evidences should not be totally ignored. After detailed enquiry, if it is found that such evidences are false or obtained on false representation of facts, immediate action has to be taken by the certificate issuing authorities (Tahsildar/ Dy.Tahsildar) to inform the appropriate authorities to cancel them. It shall also be brought to the knowledge of the concerned Deputy



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Collector (Revenue)/ Joint Secretary (Revenue) for follow up action.

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(3)For getting Nativity/Residence certificate, the application has to be submitted by the applicant to the concerned Tahsildar of Taluk Office or Dy.Tahsildar of Sub-Taluk Office and it will be forwarded to the Village Administrative Officer of the concerned revenue village through the Revenue Inspector for discreet enquiry and report. If the applicant or parent or guardian resides in the concerned revenue village, as per the criteria mentioned in pre-paras, the Village Administrative Officer shall make a report and it shall be verified by the Revenue Inspector. After considering the reports of the VAO and RI, the Dy.Tahsildar or Tahsildar of concerned Sub-Taluk or Taluk may issue the certificate to the applicant.”

7.Admittedly, the petitioner studied her schooling and college at Puducherry and earlier also obtained residence certificate in the said U.T. This Court perused G.O. Ms. No.48, Revenue Department (Pondicherry), dated 12.12.2002 and the Circular of the Revenue Department No.6260/C2/Rev/ 2003 dated 06.10.2003, wherein it is stated that while computing the period of actual residence, temporary absence for education, job etc., shall be ignored. Due to employment of petitioner's husband at Telagana State and subsequently due to covid pandemic, she moved from



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Puducherry UT for some time, which cannot be taken as a ground for rejection. On a bare perusal of records, it is clear that the petitioner is resident of Puducherry and having identity proof for the same. Further it reveals that earlier, she obtained resident certificate from Puducherry Revenue Department and if such basis is taken, her temporary absence for the reasons stated supra can be ignored.

8. In view of the above, rejecting the petitioner's claim for issuance of Residence / Nativity Certificate is not acceptable as it is not in consonance with Circular of the Revenue Department No.6260/C2/Rev/2003 dated 06.10.2003, issued by the Pondicherry Government. Hence, the impugned Proceedings, dated 09.05.2024 passed by the 2nd respondent is hereby set aside and accordingly, this writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

9. The respondents 1 to 3 are directed to issue Residence / Nativity Certificate in favour of the petitioner, within a period of two weeks from the date of receipt of a copy of this order.

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Index: Yes/ No

Speaking order / Non speaking order

Neutral citation : Yes / No

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M.DHANDAPANI, J.

vsi2

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