



WP.No.35711/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

WP.No.35711/2023 & WMP.Nos.35693 & 35697/2023

Sivasubburamalu.D

... Petitioner

Vs.

1.The Deputy Collector,
[Revenue South], Office of
Deputy Collector, Villianur
U.T. Of Puducherry.

2.The Tahsildar
Villianur Taluk Office
Villianur, Puducherry.

3.The Transport Commissioner cum
Joint Secretary to Government
Chief Secretariat, Puducherry.

4.The Secretary to Government [Agri]
cum Controller of Examination
Chief Secretariat, Puducherry.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of certiorarified mandamus calling records relating to the impugned order of the 2nd respondent in his order No.5764/TOV/A3/Certificates/2023-24 dated 21.11.2023 and the consequential order of the 1st respondent in No.6316/DCRS/B7/Cert-Appeal/2023/2851 dated 12.12.2023 and quash the same as highly illegal and consequentially direct the 2nd respondent to issue community and 5 years nativity certificate for the petitioner.

For Petitioner : Mr.K.S.Ilangovan
For Respondents : Mr.A.Tamilvanan, AGP[Pondy]

ORDER

[Order of the Court was made by S.S.SUNDAR, J.,]

(1)The present writ petition has been filed for issuance of a writ of certiorarified mandamus to quash the impugned order dated 21.11.2023 and the consequential order of the 1st respondent dated 12.12.2023 and consequentially to direct the 2nd respondent to issue Community Certificate and five years Nativity Certificate for the petitioner.



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(2)The petitioner states that he is a resident of Puducherry. He further states that he belongs to Hindu Gavara Naidu community. He also produced before this Court, a few documents to show that he is a permanent resident of Puducherry. It is now admitted before this Court that the petitioner's father was issued with a Community Certificate as well as Nativity Certificate. On the basis of the said Certificates issued to the petitioner's father, the petitioner also applied for the same. Since the petitioner's name is also found in the Ration Card distributed in the State of Tamil Nadu earlier, despite new ration card was issued in Pondicherry and production of Aadhar Card to show that the petitioner had permanent residence at Puducherry, the 1st respondent vide impugned order dated 12.12.2023 rejected the application submitted by the petitioner mainly on the ground that except the Aadhar Card and few other documents which were recently obtained, the petitioner has not produced any other documents to prove his permanent residence in Puducherry continuously for five years. Challenging the same, the above writ petition is filed.

(3)The learned counsel for the petitioner produced before this Court, a few documents like old Voters' ID of the petitioner in Pondicherry, new Voters'



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ID of the petitioner in Pondicherry and the Booth Slip issued for the 2024 elections in Puducherry. Apart from various statutory documents, the petitioner also produced his Birth Certificate.

(4)The grievance of the petitioner is that the respondent has not considered the vital documents which are available with him and that, the respondent has rejected the application only for want of proof. This Court though is convinced that the petitioner has produced substantial documents to show his permanent residence as well as community status. However, the impugned order is mainly on the basis that the ration card and Voters' ID that were also issued to the petitioner in the State of Tamil Nadu.

(5)The petitioner admits that based on his grandfather's residence, he was shown as a person who is not residing in Puducherry. However, after realising that some of the documents are contrary to his claim, he has set right the same by getting appropriate changes or getting fresh certificate later. Apart from the Birth Certificate issued to the petitioner, a valid Ration card and Aadhar Card and copy of the EPIC of the petitioner and the Transfer Certificate were also submitted.



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(6) The learned Additional Government Pleader [Pondy] produced before this Court, the Guidelines issued by the competent authority for determining the residents at Puducherry.

(7) The Government of Puducherry by proceedings dated 06.10.2003, issued certain guidelines for the determination of the Residents of Union Territory of Puducherry. Clause 2[2] of the Guidelines is extracted below for convenience:-

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

[1].....

[2]The actual and physical residence of the applicant/parent/guardian is essential. But, mere possession of evidences like a 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



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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 Collector [Revenue] / Joint Secretary [Revenue] for follow up action."

(8)The Guideline is merely directory in nature and it only states that the physical residence of the applicant cannot be accepted by mere possession of evidences like Ration Card, Aadhar Card or previous certificates. However, as per guidelines these documents are also relevant. In the present case, apart from change of Ration Card, voters' ID and other statutory records, the petitioner is in possession of a few documents to prove his physical residence.

(9)Therefore, this Court finds that the impugned order is not on the correct interpretation of the Guidelines. The impugned order therefore, is set aside and the matter is remitted back to the 1st respondent for fresh decision in accordance with law after holding an enquiry and considering all the documents by examining their authenticity. This exercise shall be



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completed within a period of eight weeks from the date of receipt of a copy of this order.

(10)The writ petition stands **disposed of**. No costs. Consequently the connected miscellaneous petitions are closed.

[S.S.S.R., J.] [N.S., J.]
03.07.2024

AP
Internet : Yes

To

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[Revenue South], Office of
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- 2.The Tahsildar
Villianur Taluk Office
Villianur, Puducherry.
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and
N.SENTHILKUMAR, J.,

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