
(1996) 02 MAD CK 0039
In the Madras High Court
Case No : Writ Petition No. 15205 of 1995

K. Suresh Babu

APPELLANT

Vs

State of Tamil Nadu and others

RESPONDENT

Date of Decision : 26-02-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1996 Mad 396 : (1996) 1 MLJ 538

Hon'ble Judges : Shivaraj Patil, J

Bench : Single Bench

Advocate : V. Ramajegadeesan, for the Appellant; D. Drishnakumar, Govt. Advocate, for the Respondent

Judgement

Shivaraj Patil, J.—The petitioner has sought for a writ of mandamus in this writ petition, directing the respondents to validate the community

certificate issued by the Tahsildar, Mayiladuthurai and accept the petitioner's community certificate treating the petitioner as a Scheduled Tribe

belonging to Kattunaicken community.

2. The petitioner states that he studied Bachelor of Engineering, Mechanical Branch, in Alagappa Engineering College, Karaikudi from 1989 to

1993 and secured degree. While he was studying in the said college the Revenue Divisional Officer, Kumbakonam, the second respondent herein

enquired about the community certificate of the petitioner as per the direction of the District Collector of Thanjavur. The petitioner while securing

the seat in the engineering college had submitted his community certificate as Kattunaicken community, a Scheduled Tribe community. The

Revenue Divisional Officer, after completion of the enquiry, confirmed that the petitioner belongs to a Scheduled Tribe community, and therefore,

he was allowed to complete the said degree course in the year 1993. The community certificate issued by the Tahsildar had not been cancelled.

3. The petitioner was called for an interview on 29-9-1994 by M/s. Bharat Heavy Electricals Ltd., Tiruchirapalli. In order to attend the said

interview he applied to the Revenue Divisional Officer, Kumbakonam to issue a community certificate as a Scheduled Tribe since the petitioner and

his parents migrated from Mayiladuthurai to Kumbakonam and became permanent residents of Kumbakonam. But the Revenue Divisional Officer,

Kumbakonam declined to issue the said community certificate on the ground that the petitioner had to approach the R.D.O., Mayiladuthurai. In this

process the petitioner lost a valuable chance of public employment. The father of the petitioner and his grandfather were given community

certificates as belonging to Scheduled Tribe community stating that Kattunaicken community is a Scheduled Tribe community.

4. The R.D.O., Kumbakonam ought to have issued community certificate as sought for, relying on the certificate issued by the Tahsildar,

Mayiladuthurai, as per G.O.Ms. No. 2137, Adi Dravidar and Tribal Welfare Department, dated 11-11-1989. The R.D.O., Kumbakonam, during

the year 1992 conducted an enquiry about the community of the petitioner as per the order of the District Collector, Thanjavur. After the

completion of the enquiry he did not recommend for the cancellation of the community certificate issued to the petitioner by the Tahsildar,

Mayiladuthurai. Thus the said certificate was allowed to be in force.

5. It is further submitted that now the Madras Refineries Ltd. have issued an interview card for Engineering Trainee and the petitioner was asked to

produce community certificate before 10-11-1995. Subsequently the Railway Recruitment Board, Madras also called for an interview for

Graduate Apprentice. The petitioner made representation to the R.D.O., Kumbakonam to issue a community certificate. As per the recent orders

he is the competent person to issue such certificate but the R.D.O., Kumbakonam is not issuing the certificate to the petitioner on the ground that

his parents had migrated from Mayiladuthurai. It is stated that the parents of the petitioner had migrated to Kumbakonam long back and there was

nobody at Mayiladuthurai area. Such being the position, the R.D.O., Kumbakonam ought to have issued community certificate to the petitioner as

sought for when the certificate issued to the petitioner by the Tahsildar, Mayiladuthurai was not cancelled. Community certificates issued to his

father and grand-father being ancient documents, they could be very well relied upon to issue certificate to the petitioner. Under the circumstances,

the petitioner has filed the writ petition for the relief as stated above.

6. No counter-affidavit is filed by the respondents.

7. The typed set of papers filed by the petitioner along with the writ petition show that a community certificate was issued to his father on 30-7-

1978 stating that he was a resident of Thiruchitrampalam in Mayuram Taluk, Thanjavur District and he belongs to Kattunaicken caste which is

recognised as a Scheduled Tribe. Copy, of the community certificate issued by the Tahsildar, Mayiladuthurai shows that the petitioner belongs to

Kattunaicken community which is recognised as a Scheduled Tribe as per G.O.Ms. No. 1564 dated 30-7-1985. G.O.Ms. No. 2137, Adi

Dravidar and Tribal Welfare Department dated 11-11-1989 shows that the Government of India were addressed for their concurrence on the

proposal that the Revenue Divisional Officers may be vested with the power to issue community certificates in respect of communities included in

the list of Scheduled Tribes in order to avoid misuse of concession by obtaining false certificates, and the Government of India had no objection to

implement the said proposal.

8. The letter No. 3917/ADW-II/91-3, dated 3-4-1991 of the Adi Dravidar and Tribal Welfare Department, Madras-9 confirms the presumption

that the permanent community certificates issued to Scheduled Tribes by the Tahsildars up to 11-11-1989 is valid. The letter No. 39484/ADW-

II/91-1, dated 16-9-1991 of the Secretary to the Government, Adi Dravidar and Tribal Welfare Department addressed to all the Collectors

shows that a request was made to validate the permanent community certificates issued to Scheduled Tribes prior to the issue of G.O.Ms. No.

2137 dated 11-11-1989. The Government of Tamil Nadu have examined the said request in detail and confirmed that the community certificate

issued to the Scheduled Tribe communities by the Tahsildars prior to 11-11-1989 will be valid. In the said letter the Collectors were requested to

validate the community certificates issued to Scheduled Tribe communities by the Tahsildars prior to 11-11-1989. In doubtful cases they may be

issued as per the Government Orders in force.

9. The learned counsel for the petitioner contended that the second respondent ought to have validated the community certificate issued to the petitioner in view of the G.O.Ms. No. 2137, dated 11-11-1989 aforementioned having regard to the letters of the Secretary, Adi Dravidar and Tribal Welfare Department, Government of Tamil Nadu dated 3-4-1991 and 16-9-1991 aforementioned. He further submitted that the father of the petitioner was given community certificate as early as on 30-7-1978 as belonging to Kattunaicken community recognised as a Scheduled Tribe. Even the petitioner was given a community certificate as belonging to Kattunaicken community recognised as a Scheduled Tribe by the Tahsildar prior to 11-11-1989 and which certificate was not cancelled by any authority. Under the circumstances, the relief sought for by the petitioner may be granted.

10. At the hearing, I specifically asked the learned Government Advocate representing the respondents 1 to 3 as to whether a person is required to obtain a fresh community certificate from the Revenue Divisional Officer, every time an admission in educational institution or appointment is sought in Government/Public Services notwithstanding the community certificates issued earlier by the Tahsildar prior to the issue of G.O.Ms. No. 2137, dated 11-11-1989 and which certificates were not cancelled. The learned Government Advocate submitted that in number of cases the concession given to the candidates belonging to Scheduled Castes and Scheduled Tribes were misused by producing false and bogus community certificates, and hence issuing of fresh community certificate by the Revenue Divisional Officers is insisted.

11. In my view, having regard to the very Government Order G.O.Ms. No. 2137 Adi Dravidar and Tribal Welfare Department, dated 11-11-1989, it is clear that the power to issue community certificates is vested in Revenue Divisional Officers in regard to the Certificates to be issued after 11-11-1989 as can be seen from paragraph 4 of the said order extracted below :--

The Government direct that the community certificates in respect of all communities included in the list of Scheduled Tribes for the purpose of appointments in public services under Central and State Governments, Public

Sector Undertakings, Quasi-Govt. Institutions, Boards etc., shall hereafter, be issued only by the Revenue Divisional Officers.

(Emphasis applied)

12. Further the two letters issued by Secretary to Government of Tamil Nadu dated 3-4-1991 and 16-9-1991 referred to above confirm that the

community certificates issued to Scheduled Tribes by Tahsildars up to 11-11-1989 are valid. In the letter dated 3-4-1991 it is stated thus :--

I am directed to refer to your letter cited and to confirm your presumption that the permanent community certificate issued to Scheduled Tribe by

Tahsildars up to 11-11-1989 is valid.

13. It is useful to extract paragraphs 2 and 3 of the letter dated 16-9-1991 of the Secretary to Government, Adi Dravidar and Tribal Welfare

Department, Government of Tamil Nadu, addressed to all Collectors, which read :--

2. The Government have examined the request in detail in consultation with Special Commissioner and Commissioner of Revenue Administration

and confirmed that the community certificate issued to the Scheduled Tribe communities by Tahsildars prior to 11-11-1989 will be valid. I am to

enclose a copy of G.O.Ms. No. 2137, Adi Dravidar and Tribal Welfare Department, dated 11-11-1989 for guidance.

3. I am to request you to validate the community certificates issued to Scheduled Tribe communities by Tahsildars prior to 11-11-1989. In

doubtful cases, I am to request that they may be issued as per Government Orders in force.

14. In the light of the G.O.Ms. No. 2137, dated 11-11-1989 and the letters of the Secretaries to Government dated 3-4-1991 and 16-9-1991, it

would not be correct and proper to insist the candidates to obtain or produce fresh community certificates from Revenue Divisional Officers every

time seeking either admission or appointment in institutions or services as the case may be, so long as the community certificate issued by Tahsildar,

the competent authority prior to 11-11-1989 is in force, and in other words it is not cancelled. In spite of the fact that a valid community certificate

is issued by the Tahsildar prior to 11-11-1989 is in force, insisting for production of a fresh community certificate after 11-11-1989 would

certainly run contrary to the G.O.Ms. No. 2137, dated 11-11-1989 itself.

15. Even the letters dated 3-4-1991 and 16-9-1991 also support the view that fresh community certificates need not be insisted in such situation,

where community certificates issued by the Tahsildars prior to 11-11-1989 are operative. Insistence for fresh certificates from Revenue Divisional

Officers in such cases would lead to hardship, inconvenience, and even waste of public time, besides there are instances where the candidates have

lost the opportunities of joining educational institutions for studies, or losing opportunities in public services for want of production of fresh

community certificates issued by Revenue Divisional Officers in time.

16. My learned brother Raju J., in the case of ""Dr. G. Elango v. Madras Port Trust"", 1991 WLR 856, has held that the certificate issued by the

Tahsildar who was the competent authority at the relevant point of time was sufficient enough, and the authorities could not insist for production of

a community certificate from a different authority contrary to law and in excess of the jurisdiction.

17. The Division Bench of this Court in the case of ""S. P. Sakthi Devi v. The Collector of Salem"" (1985) 98 MLW 105, dealing with the validity of

the caste certificate issued by an empowered public authority, in paragraph 10 of the said order, has held that :

1.A caste/community certificate issued by an empowered public authority under seal continues to be a valid document till it is cancelled by the said

authority or by his superior authority.

2. Their contents are to be treated as correct and every public authority, undertakings, bodies, institutions, etc. which are bound by instructions

relating to such certificates, are bound to act upon them, so long as they are not cancelled.

3. In no disciplinary proceedings, their genuineness or correctness of their contents can be gone into. It is open to the department or employer or

organisation, to ask the issuing authority or District Collector, as the case may be, to verify whether the certificate as issued could be still valid, on

materials which have since come to their knowledge. They can appear in the verification enquiry and place the materials.

4. If the certificate is cancelled, then disciplinary proceedings can be initiated for having furnished false information.

5. Appointing authorities have the right to verify the genuineness of the

certificates by approaching the District Magistrate -- Collector of the District or such other constituted authority and once the report is received that the certificate is genuine, thereafter the certificate holder cannot be further harassed to prove his caste/community in any other manner.

6. In causing verification, the Collector is bound to follow the procedure laid down in letter dated 7th July, 1983 of Government of Tamil Nadu.

7. In view of what is stated in Chapter 14 of Brochure on Reservation for Scheduled Castes and Scheduled Tribes, in services, 6th Edition (1982),

the instructions issued by the Central Government from time to time relating to Scheduled Castes and Scheduled Tribes, pertaining to issue of caste

certificates are binding upon public sector undertakings, statutory and semi-Government bodies and voluntary agencies receiving grant-in-aid from

the Central Government, as provided therein.

18. I also had an occasion to refer and deal with the said G.O.Ms. No. 2137, dated 11-11-1989 in Writ Petition No. 11803 of 1995 disposed of

on 4-1-1996. I have taken the view in the said writ petition that G.O.Ms. No. 2137, dated 11-11-1989 is prospective in its operation looking to

paragraph 4 of the said Govt. Order.

19. In the light of what is stated above, I have no hesitation to hold and conclude that the community certificates issued to candidates by Tahsildar

prior to 11-11-1989 are good enough for all the concerned authorities to take them into consideration, be it a case of admission in educational

institution or appointment in a public service, so long as such certificates are in force and they are not cancelled, subject to the guidelines given in

paragraph 10 of the Division Bench judgment in the case of ""S. P. Sakthi Devi"" aforementioned. It is open to the competent authorities to enquire

into and cancel community certificates issued to candidates if the community certificates obtained were not genuine or valid, or ceases to be valid

due to change of circumstances such as conversion etc.

20. In the case on hand, although the petitioner sought for a writ of Mandamus directing the respondents to validate the community certificate

issued by the Tahsildar, Mayiladuthurai, in the view I have taken, it may not be necessary to issue a writ of Mandamus inasmuch as the community

certificate issued to the petitioner by the Tahsildar, Mayiladuthurai should be held sufficient for the purpose of seeking employment, so far as the

said certificate is in force and it is not cancelled.

21. In the result, for the reasons stated, I pass the following order :--

Although the petitioner has sought for a writ of Mandamus directing the respondents to validate the community certificate issued by the Tahsildar,

Mayiladuthurai, it is not necessary to issue a writ of Mandamus, inasmuch as the community certificate issued to the petitioner by the Tahsildar,

Mayiladuthurai is held sufficient for the purpose of seeking employment, so far as the said certificate is in force and it is not cancelled. It is made

clear that it is open to the competent authorities to verify as to the genuineness of the community certificate issued to the petitioner by the Tahsildar,

Mayiladuthurai prior to 11-11-1989 in the light of the directions given in paragraph 10 of the Division Bench judgment of this Court in the case of

S. P. Sakthi Devi"" aforementioned,

22. Order accordingly.