

(2013) 11 MAD CK 0063
In the Madras High Court
Case No : Writ Petition No. 17859 of 2012

M. Gandhi

APPELLANT

Vs

The Revenue Divisional Officer Hozur

RESPONDENT

Date of Decision : 13-11-2013

Acts Referred:

Citation : (2013) 11 MAD CK 0063

Hon'ble Judges : R. Sudhakar, J; Pushpa Sathyanarayana, J

Bench : Division Bench

Advocate : R. Bharath Kumar, for the Appellant; S.P. Prabhakaran A.G.P., for the Respondent

Final Decision : Allowed

Judgement

Pushpa Sathyanarayana, J.—This writ petition is filed seeking issuance of a writ of Certiorarified Mandamus to call for the records of the

respondent issued in Na.Ka.4447/2011(A1), dated 3.5.2012, to quash the same and to consequently direct the respondent to issue ""Kurichchan

Community Certificate, which is included in the list of Scheduled Tribes, to the petitioner based on the petitioner's application dated 1.2.2010. The

brief facts of the case are as follows: The petitioner claims that he belongs to Kurichchan community, which is a Scheduled Tribe community. The

petitioner's father was issued a community certificate dated 17.3.1981 by the Tahsildar, Hozur certifying that he belongs to Kurichchan

(Scheduled Tribe) Community. Based on the said community certificate, the petitioner's father was appointed as Postman in the Postal

Department and he also retired from service. The petitioner's father passed away and as on date, the community certificate issued to him holds

good.

1.1. It is stated that the school records of the petitioner show that he belongs to Kurichchan Community and at present, he is pursuing B.A.

(English) in Tamil Nadu Open University and he is unemployed. It is averred that the petitioner has two children and the school authorities where

his children are studying are insisting on production of community certificate. The petitioner submitted an application on 6.8.2007 to the District

Collector, Krishnagiri seeking Kurichchan (Scheduled Caste) community certificate and the said representation was forwarded to the respondent

herein. The petitioner made a further representation on 1.2.2010. However, since no action was taken by the respondent, the petitioner filed W.P.

No. 19681 of 2011 and a Division Bench of this Court, by order dated 25.8.2011, while granting liberty to the petitioner to file a supporting

affidavit in terms of the decision of the Supreme Court in Kumari Madhuri Patila and another Vs. Addl. Commissioner, Tribal Development and

others, regarding the community status, practice and customs adopted by the parents of the petitioner, directed the respondent to dispose of the

application within three months thereafter.

1.2. According to the petitioner, he submitted a representation enclosing supporting affidavit and all relevant documents, but the respondent, by

proceedings dated 3.5.2012, without properly analyzing and scrutinizing the said documents has rejected the request made by the petitioner.

Hence, the present writ petition.

2. The impugned order passed by the respondent is assailed primarily on the ground that the community certificate issued to the father of the

petitioner by the Tahsildar, which holds good even as on date, has not been considered by the respondent. It is pleaded that the petitioner's uncle

one Anumanthappa was also issued Kurichchan (Scheduled Tribe) Community Certificate by the Tahsildar prior to 1981 and the same has not

been cancelled till date and, therefore, the impugned order is invalid and has to be set aside.

3. We have heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent.

4. From a perusal of the judgment in R. Kandasamy Vs. Chief Engineer, Madras Port Trust, , it is evident that community certificate in respect of

Scheduled Tribe was issued by the Tahsildar prior to 1989 and after 11.11.1989, by G.O. Ms. No. 2137, the Revenue Divisional Officer was

vested with the power to issue community certificates in respect of Scheduled Tribes. The said Government Order further states that the

certificates issued prior to 11.11.1989 by the Tahsildar are valid certificates.

5. In the present case, it is evident that the respondent, without adverting to G.O.Ms. No. 2137, dated 11.11.1989, referred to in the above

judgment, has erroneously rejected the application of the petitioner stating that the certificate issued to the father of the petitioner by the Tahsildar

cannot be relied upon, though the said certificate has not been cancelled till date in a manner known to law. Therefore, we are of the considered

opinion that the said act of the respondent is per se wrong and is liable to be set aside.

6. Further, by this order, we only clarify that we have only dealt with the validity of the certificates issued by the Tahsildar prior to 11.11.1989 in

the light of the judgment of the Supreme Court in Kandasamy case, supra, and not considered the genuineness of the same. For the foregoing

reasons, this writ petition is allowed and the impugned order is set aside. The matter is remanded to the respondent with a direction to pass

appropriate orders by following G.O. Ms. No. 2137 dated 11.11.1989. In case the authority entertains any doubt, it is for the authority or the

Department to seek for verification in accordance with law. There shall be no order as to costs.