
(2013) 11 MAD CK 0264
In the Madras High Court
Case No : Writ Petition No. 1384 of 2013

M.L. Narayanan

APPELLANT

Vs

The Revenue Divisional Officer

RESPONDENT

Date of Decision : 11-11-2013

Acts Referred:

Citation : (2013) 11 MAD CK 0264

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

Bench : Division Bench

Advocate : S. Doraisamy for Mr. M.P. Vairakannan, for the Appellant; S.P. Prabhakaran, AGP, for the Respondent

Final Decision : Allowed

Judgement

Pushpa Sathyanarayana, J.—The petitioner in both the writ petitions are brothers. The claim of the petitioners is that they belong to "Kurichchan" Scheduled Tribe Community. It is the case of the petitioners that they had applied for issuance of community certificate on 1.2.2011. Since no orders were passed on their applications, they were constrained to file W.P. No. 7755/2011 to consider and pass orders on the applications filed by the petitioners. This Court, by order dated 1.2.2012, directed the respondent to consider the applications filed by the petitioners and pass orders on merits within a period of three months. Accordingly, in pursuance of the order passed by this Court, the respondent, vide order dated 2.4.2012, rejected the applications filed by the petitioners. The petitioners, in support of their case before the respondent, filed the following documents:--

- i) Educational certificate of the respective petitioners;
- ii) Community certificate issued by the Tahsildar to the father of the petitioners;
- iii) Community certificate issued to the father of the petitioners for the purpose of employment in Central Government; and

iv) Community certificate issued by the Tahsildar the maternal uncle of the petitioners.

2. The petitioners have also filed bio-data of the father of the petitioner attested by the Sub-Divisional Inspector (Postal), Krishnagiri Sub-Division for the purpose of GPF No. 93663, which describes the father of the petitioners as belonging to Scheduled Tribe. It is the case of the petitioners that the respondent, without considering the above documents, have passed the impugned order refusing to issue community certificate on the ground that the certificates issued to the relatives and the father of petitioners were issued by the Tahsildar and not by the Revenue Divisional Officer and, therefore, reliance cannot be placed upon those documents and, therefore, rejected the contention of the petitioners that if one of the relatives have been granted scheduled tribe community certificate, the applicants will also be entitled to get the community certificate.

3. Learned counsel appearing for the petitioners brought to the notice of this Court that once the father or relatives have been issued with community certificate, the said community certificates should be taken into account and the applications should not be rejected. In support of his contentions, he placed reliance upon the following judgments:--

1) 2005 (12) SCC 248 State of Bihar v. Sumit Anand

2) 2010 (3) CTC 673 C.V. Kalaivanan v. Sub-collector, Mettur.

3) W.P. No. 1837 of 2013 dated 15.4.2013 A. Madhuswamy v. RDO, Dharmapuri.

4. It is further contended by the learned counsel for the petitioners that when the Tahsildar has issued community certificate to the father of the petitioners, as laid down by this Court in C.V. Kalaivanan v. The Sub-Collector, Mettur Dam, Salem District, (2010 (3) CTC 673), unless the same is cancelled in accordance with law, the application for community certificate by the petitioners cannot be rejected and further the certificates produced by the petitioners were issued prior to the judgment in Kumari Madhuri Patila and another Vs. Addl. Commissioner, Tribal Development and others, . Learned counsel also placed reliance on the judgment in R. Kandasamy Vs. Chief Engineer, Madras Port Trust, , wherein the Government by G.O. Ms. No. 2137 dated 11.11.89 directed that community certificate shall be issued only by the Revenue Divisional Officer, meaning thereby, that certificates issued prior to 11.11.1989 were not called into question and they were treated to be valid. Therefore, learned counsel prayed for allowing the petitions.

5. Heard the learned counsel appearing for the petitioners and the learned Addl. Government Pleader appearing for the respondent.

6. From the facts as narrated above and the judgment in Kandasamy's case (supra), it is evident that community certificate in respect of Scheduled Tribe was issued by the Tahsildar prior to 1989 and that 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. In the present case, it is evident that the Sub-Collector, without advertent to G.O. Ms. No. 2137 dated 11.11.1989, referred to in the above judgment, has erroneously dismissed the applications stating that the certificate issued to the father of the petitioners by the Tahsildar cannot be relied upon, though the said certificate has till date not been cancelled in a manner known to law. Therefore, the said act of the respondent, in the considered opinion of this Court, is per se wrong and liable to be set aside.

7. 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 referred to supra in re Kandasamy and not considered the genuineness. Accordingly, the impugned orders are set aside. Both the writ petitions are allowed by way of remand. The respondent authority is directed 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.