

(2007) 12 MAD CK 0201

In the Madras High Court

Case No : Writ Petition No. 12946 of 2007 and M.P. No's. 1 and 2 of 2007

S. Prasantha Kumar

APPELLANT

Vs

The District Revenue officer, The District Elementary
Educational Officer and The Tahsildar

RESPONDENT

Date of Decision : 20-12-2007

Acts Referred:

Citation : (2007) 12 MAD CK 0201

Hon'ble Judges : M. Chockalingam, J

Bench : Single Bench

Advocate : S.M. Loganathan, for the Appellant; Shanmugavalli Sekar, Additonal
Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

M. Chockalingam, J.—Seeking to issue a writ of Certiorarified Mandamus to call for the records relating to the proceedings in Na.Ka. No.

31179/2006-31/X1 dated 9.1.2007 on the file of the first respondent herein and to quash the same and consequently direct the second respondent

herein to consider the petitioner's claim for the appointment of Elementary Middle School Teacher without reference to the report in respect of the

Family Migration Certificate, this writ petition has been filed.

2. The Court heard the learned Counsel on either side.

3. The case of the petitioner in short is that after completion of his studies, he applied for Teacher Education and obtained Diploma in May 1994,

that he was originally residing at Chennai where he registered with the District of Chennai for the purpose of employment, that he got opportunity

to serve in a private Institution at Tiruvellore, that he was constrained to move to a place nearer to the place of work and hence he shifted his

residence to Sriperumbudur. While he was staying at Sriperumbudur, he got married in the year 2003, that his wife is a teacher who was working then at Villupuram, that the petitioner's wife had applied for transfer and is now working as a Teacher in Kancheepuram District. Since he is residing with his wife at Sriperumbudur along with her family members and the family was headed by the petitioner, he has also applied for Migration Certificate and the Migration Certificate was issued on 21.2.2005 by the Tahsildar, Sriperumbudur, after due enquiry. While the matter stood thus, the first respondent called him for an interview for appointment of the post of Elementary Middle School Teacher. The second respondent by his proceedings dated 5.10.2005 called upon the petitioner to produce various certificates for the purpose of verification. While he produced all the necessary certificates as required on expecting the appointment. While the matter thus,, the order came to be passed on the strength of the report that cancelling the original Migration Certificate stating that he has obtained the certificate on false information and that he is living with his mother-in-law, his wife and sister and hence he it could not be considered as true. Under such circumstances, necessity arose for the petitioner to approach this Court for the relief as extracted above.

4. Advancing his argument on behalf of the petitioner, learned Counsel took the Court to different documents that were produced before the authority. However, learned Counsel would submit that it is not in controversy that the petitioner who belonged to Kanyakumari District was actually employed in Private School at Thiruvallur and had his residence at Sriperumbudur. At this stage, she married a teacher who was working then at Villupuram and the petitioner's wife had applied for transfer and is now working as a teacher in Kancheepuram District and thus the family was settled at Sriperumbudur. Under such circumstances, there arose necessity for obtaining Migration Certificate and on enquiry, it was issued on 5.02.2005. Along with all other certificates, Migration certificate was also produced before the first respondent at the time of interview. While a report was called for, the Revenue Divisional Officer conducted an enquiry and submitted a report stating that the petitioner had obtained migration certificate on giving false information, but the same is not correct. It is true that mother-in-law of the petitioner is living with him and that does not

mean that the petitioner was not living at the place at Sriperumbudur. All the documentary evidence would clearly indicate that the petitioner is

staying at Sriperumbudur and was working at Tiruvellore and it does not mean that he has suppressed anything or he has given any false

information to get such a certificate. The Tahsildar has made a proper enquiry and only on satisfaction of the same, the Tahsildar has issued a

Migration certificate and without assigning any proper or acceptable reason, it has been cancelled by the first respondent and hence it has got to be

set aside.

5. Heard the learned Counsel for the respondents on the above contentions.

6. After doing so, this Court is of the considered opinion that the order of the first respondent has got to be set aside . The original Migration

certificate issued to the petitioner must come into force again. It is not in controversy that the petitioner belonged to Kanyakumari District. As a

bachelor, the petitioner was residing at Virugambakkam, Chennai and when he got appointment at Private School at Tiruvellore, he was

constrained to move to a nearby place at Sriperumbudur. In the year 2003, he got married. At that time, his wife was working at Villupuram and

since there arose necessity to get transfer, she got transfer at a school at Kancheepuram and thereafter she was living with her husband at

Sriperumbudur. The contention that the mother-in-law of the petitioner was living with him, cannot be a reason for cancelling the Migration

certificate which was issued on proper enquiry. What are all found in the cancellation order is that he was living with his mother-in-law, father-in-

law and wife at Sriperumbudur and it is also the property of his mother-in-law. The Migration certificate obtained by giving false information,

cannot be countenanced for the simple reason that the petitioner has produced a bank pass book of Tiruvellore and a bank passbook

Sriperumbudur schedule bank which would be pointing to the fact that he was working at Tiruvellore District and staying at Sriperumbudur. Thus

after proper enquiry, the Tahsildar has issued Migration certification and there is no question of cancellation of the same, since no fault is on his part.

Under such circumstances, without any hesitation whatsoever, the order of the first respondent is set aside and it is quashed . It is also made clear

that there cannot be any impediment for the second respondent to consider the

case of the petitioner for appointment for which purpose he was called for interview.

7. The writ petition is allowed. No costs. Consequently, M.P.Nos.1 and 2 of 2007 are closed.