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(2013) 11 MAD CK 0193

In the Madras High Court

Case No : Writ Petition No. 17925 of 2013

S.S.S. Ranjith Priyan — APPELLANT

Vs

The Revenue Divisional Officer, Sakagiri — RESPONDENT

Date of Decision : 27-11-2013

Acts Referred:

Citation : (2013) 11 MAD CK 0193

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

Bench : Division Bench

Advocate : V. Vijay Shankar, for the Appellant; S.P. Prabhakaran, A.G.P., for the Respondent

Final Decision : Allowed

Judgement

R. Sudhakar, J.—This writ petition is filed seeking issuance of a writ of Certiorarified Mandamus to call for the proceeding of the respondent in Na.Ka. 1713/2012(D), dated 7.3.2013, to quash the same and to consequently direct the respondent to issue community certificate to the petitioner to the effect that he belongs to "Konda Reddi" Community (Scheduled Tribe). We have heard at length the learned counsel for the petitioner, the learned Additional Government Pleader appearing for the respondent and the Sub-Collector of Mettur, Salem District, who is present in Court.

2. The petitioner has made a claim for issuance of a community certificate to the effect that he belongs to "Konda Reddi" Community (Scheduled Tribe) and that request has been rejected by the respondent for various reasons stated in the order. However, the order passed by the respondent has to be set aside for one reason stated, namely that the petitioner is residing at Door No. 875, Palkaramma House, Gandhi Nagar, II Street, Kalingarayanpalayam, Bhavani Post, Mettunasuvampalayam Village, Erode Taluk, Erode District, within the jurisdiction of the Revenue Divisional Officer, Erode and, therefore, he can make an application to the Revenue Divisional Officer, Erode and seek appropriate community certificate.

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3. The above said reasoning given by the respondent in the impugned order runs counter to the G.O.Ms. No. 61, Adi Dravidar and Tribal Welfare (ADW-10) Department, dated 4.4.2005, which reads as under:

Adi Dravidar and Tribal Welfare Issue of Scheduled Caste/Scheduled Tribes Community Certificates Clarifications Orders issued.

Adi Dravidar and Tribal Welfare (ADW-10) Department G.O.(Ms.) No. 61

Dated 04.04.2005

1. Government of India, Ministry of Home Affairs, Letter No. BC/12025/2/76-SCT, dated 22.03.1977.

2. From the Collector of Chennai District Letter ROC No. VI/5885/2004, dated 30.07.2004 and 14.10.2004.

3. Government of India, Ministry of Tribal Affairs, New Delhi, Letter F. No. 12016/37/2004-T.A. (RL), dated 04.03.2005.

ORDER

4. The Collector of Chennai has brought to the notice of the Government the difficulties faced by Chennai District administration in issuing Scheduled Caste/ Scheduled Tribes Community Certificate to the people migrated from other Districts and States.

5. As per the Government of India''s instructions, the competent authority to issue Scheduled Caste/Scheduled Tribes Certificates should be the one, concerned with the locality in which the persons applying for the certificate and his place of permanent abode, at the time of the notification of the relevant Presidential Order. Thus, the Revenue Authority of one District would not be competent to issue such a certificate in respect of persons belonging to another District.

6. In cases of persons born after the date of notification of the relevant Presidential Order, the place of residence for the purpose of acquiring Scheduled Caste/Scheduled Tribe status in the place of permanent abode, of their parents, at the time of notification of the Presidential Order, under which they claim to belong to such a caste/Tribe.

7. In the letter 3rd read above, the Government of India has also clarified as "the place of permanent abode of their parents" as mentioned in the above circular first read above would mean:

The term their parents used in the said phrase, will include not only the parents but also the grand parents, subsequent genera also. Therefore, only a Scheduled Caste certificate is issued to a person born after the date of notification of a particular Presidential Order, based on the permanent abode of his parents, then his children, grand children, i.e. Successive generation, will also continue to be entitled to claim their status of Scheduled Tribes in the state of their ancestors,

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who were residing on the date of notification of the particular Presidential Order.

5. The above instructions of Government of India should be strictly adhered to while issue of Scheduled Caste/Scheduled Tribes certificates.

A reading of the above said government order makes it clear that the petitioner has to approach the jurisdictional Revenue Divisional Officer in the place of permanent abode of his parents or ancestors.

8. It is the case of the petitioner that his father''s community certificate was issued by the Tahsildar, Mettur prior to 11.11.1989, namely on 12.9.1978, however no proof has been furnished by the petitioner as to the actual place of residence of his father and grandparents. However, the reason given by the respondent in the present case that the present place of residence of the petitioner is his permanent abode and therefore he has to approach the Revenue Divisional Officer concerned to issue community certificate is totally contrary to the said government order and therefore the impugned order is set aside. We, however, give liberty to the petitioner to approach the competent authority, namely the Revenue Divisional Officer either at Sakagiri or Mettur, on the basis of the materials that he may produce to establish the claim for issuance of community certificate based on the place of permanent abode of his parents or ancestors, as indicated in the government order, referred to above. As and when such application is made, the authority shall consider the entire issue on its own merits and in accordance with law, without reference to the order dated 7.3.2013 passed by the respondent.

In the result, the writ petition is allowed and the impugned order is set aside, with liberty and direction as indicated above. However, it is needless to state that the principles of natural justice should be followed and an opportunity should be given to the petitioner to put forth his claim for issuance of community certificate. No costs.

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