



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2013

CORAM:

THE HONOURABLE MR.JUSTICE K.N.BASHA
and
THE HONOURABLE MR.JUSTICE P.DEVADASS

Writ Petition (MD) No.1833 of 2013

K.Ravi

... Petitioner

Vs.

1. The District Collector,
Tirunelveli District, Tirunelveli.
2. The Revenue Divisional Officer,
Tenkasi. ... Respondents

Writ Petition under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the respondents to issue Hindu Malaikuravar Community Certificate to the petitioner's children namely R.Ranjith Kumar, R.Vignesh and R.Dinesh within the stipulated time.

For Petitioner : Mr.J.Nisha Banu
For Respondents : Mr.M.Alagathevan
Special Government Pleader

ORDER

[Order of the Court was made by K.N.BASHA, J. & P.DEVADASS, J.]

The petitioner has come forward with this writ petition seeking for the relief of writ of Mandamus directing the respondents to issue Hindu Malaikuravar Community Certificate to the petitioner's children namely R.Ranjith Kumar, R.Vignesh and R.Dinesh within the stipulated time.

2. Mr.M.Alagathevan, learned Special Government Pleader takes notice for respondents.

3. By mutual consent of both the parties, the main writ petition itself is taken up for final disposal.

4. The learned counsel for the petitioner would contend that based on the orders passed by this Court dated 22.06.2012 in W.P.No.8389 of 2012, an application dated 05.09.2012 was submitted for the issue of Community Certificate enclosing necessary documents including the Community Certificate issued in favour of the petitioner's brother. But till date no action has been taken.

5. Heard Mr.M.Alagathevan, learned Special Government Pleader on the submissions made by the learned counsel for the petitioner.

6. The fact remains that already this Court passed order on 22.06.2012 in W.P.No.8389 of 2012 holding that the petitioner has to apply to the appropriate authorities, who has got jurisdiction viz., the Revenue Divisional Officer, Tenkasi for the issue of Community Certificate. It is pointed out by the learned counsel for the petitioner

that pursuant to the said order, an application dated 05.09.2012 was already submitted to the second respondent, but till date no action has been taken.

7. At this juncture, it is relevant to refer to the decision of a Division Bench of this Court, reported in **2010 Writ L.R.1123 - T.V.Dharmalingam vs. The Head of Department (Sp.Exams.) & Others**, wherein the Division Bench has held as follows:

"12.....When the petitioner himself was issued with a Community Certificate stating that he belongs to Hindu Kurumans community, a Scheduled Tribe, without cancelling the same, in a manner known to law, the entry in the Service Register regarding the Community of the petitioner cannot be doubted.

.....

17. In the facts and circumstances of the case, following the ratio of the decision of the earlier Division Bench of this Court, we are inclined to give a positive direction to the fourth respondent to issue Community Certificate to the children of the petitioner as belong to "Hindu Kurumans" community."

8. In view of the principle laid down by the Division Bench of this Court, we are of the considered view that the above principle is squarely applicable to the facts of the case in hand. Admittedly, the petitioner's brother is possessing a valid community certificate issued by the competent authority and as such the petitioner is entitled to seek the relief of issue of community certificate in respect of his daughter also, by mentioning that they belong to Hindu Malaikuravar Community comes under the category of Scheduled Tribe.

9. In view of the above, we are constrained to direct the second respondent herein to take action on such application dated 05.09.2012 by conducting proper enquiry in the manner known to law and by considering the documents produced by the petitioner. The petitioner shall furnish a fresh copy of the representation dated 05.09.2012 to the second respondent within ten days from the date of receipt of a copy of this order.

10. The Writ Petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Asst. Registrar

To:

1. The District Collector, Tirunelveli District, Tirunelveli.

2. The Revenue Divisional Officer, Tenkasi.

+ 1 CC to the Spl. Government Pleader vide SR.No.4899

W.P. (MD) No.1833 of 2013

GDR 21.02.2013 2P/4C