

Ashok Kumar Vs. The District Vigilance Committee for Verification of Community Certificates, Virudhunagar District and Others

Ashok Kumar Vs. The District Vigilance Committee for Verification of Community Certificates, Virudhunagar District and Others

SooperKanoon Citation : sooperkanoon.com/1188410

Court : Chennai Madurai

Decided On : Sep-08-2016

Judge : M. Sathyanarayanan & The Honourable Ms. Justice V.M. Velumani

Appeal No. : W.P.(MD)No. 9390 of 2009 & M.P.(MD)No. 1 of 2009

Appellant : Ashok Kumar

Respondent : The District Vigilance Committee for Verification of Community Certificates, Virudhunagar District and Others

Judgement :

(Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records in proceedings No.Na.Ka.J1.44815/08, dated 20.08.2009, passed by the first respondent and quash the same.)

M. Sathyanarayan, J.

1. The petitioner would claim that he belongs to Hindu Pallan Community, since it is included in the list of Scheduled Caste Community. The petitioner joined the fourth respondent College in the year 2004 and completed his Bachelor Degree in Engineering (Mechanical Engineering) course in the year 2008 and he got seat in

the fourth respondent College based on the Hindu Scheduled Caste Community status.

2. The petitioner would further state that he was also issued with Community Certificate No.1053556, dated 21.06.1997, by the Tahsildar, Virudhunagar, stating that he belongs to Hindu Pallan Scheduled Caste Community. It is stated by the petitioner that his father was professed as Christian and got himself converted to Hinduism as early as on 25.05.1980, through Sri-la-Sri Arunagirinathar Sri Gnanasambanda Desika Parmachariya Swamigal, Madurai Aadheenam, and was also issued with conversion certificate bearing No.6481, dated 25.05.1980, by the said Aadheenam afterwards and changed his name from Rajendra Bharathy to Natarajan and also effected change in Government Gazette Publication, Tamil Nadu, dated 02.07.1980.

3. The petitioner would also state that he born on 15.10.1986 after conversion of his father from Christianity to Hinduism. Therefore, he was a Hindu by birth and there cannot be any doubt that he belongs to Hindu Pallan Scheduled Caste Community. It is stated by the petitioner that though he was undergoing studies in the fourth respondent College, it sent a Letter to the District Collector, Virudhunagar, who is the President of the District Vigilance Committee for Verification of Community Certificates and the District Collector, in turn, called for report from the second respondent, vide letter dated 17.01.2006, in Na.Ka.J1-7597-05, seeking genuineness of the Community Certificate issued to the petitioner. The second respondent, after conducting enquiry, by sending his report, dated 28.11.2008, in Pa.Mu./Aa5/432/2006, stated that the Community Certificate issued to the petitioner is a genuine one. The first respondent after taking note of the said report, has found that in the first page of the S.S.L.C. Book of the petitioner s father, correction has been made in Name, Nationality, Religion and Community columns. It has been done without any authorization or proof and therefore, the Community Certificate issued to the petitioner by the second respondent cannot be considered as genuine or true, vide impugned order dated 20.08.2009. Challenging the legality of the order, the petitioner has come forward with the present writ petition.

4. The learned counsel for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that the petitioner's father got converted to Hinduism from Christianity and also issued with Certificate bearing No.6481, dated 25.05.1980, by Sri-Ia-Sri Arunagirinatha Sri Gnanasambanda Desika Paramachariya Swamigal, Madurai Aadheenam and also effected the Publication in Tamil Nau Government Gazette, dated 02.07.1980 and the petitioner born thereafter, i.e., on 15.10.1986 and therefore, by birth he is a Hindu and thereby, he belongs to Hindu Pallan Community and when he applied for Community Certificate, the third respondent, on consideration of the facts and circumstances, has also issued a Community Certificate on 21.06.1997 in favour of the petitioner and therefore, there cannot be any doubt as to the genuineness of the Community Certificate issued to the petitioner.

5. The learned counsel for the petitioner has also drawn the attention of this Court to G.O.(Ms)No.1, Adi-Dravidar and Tribal Welfare Department, dated 02.01.2009 and would submit that once the persons belonging to Adi-Dravidar (Scheduled Caste) converted to Hinduism, all the benefits extended to the people belonging to Scheduled Caste and Scheduled Tribe should be extended to them and on that ground also, the impugned order warrants interference by this Court.

6. It is also the submission of the learned counsel for the petitioner that based on the conversion, the petitioner's father was also issued with Community Certificate, dated 17.07.1980 and relevant corrections have also been made in the Certificates and the records of the petitioner's father do not reflect any semblance of the doubt as to the religious and community status of the petitioner's father as well as the petitioner and the first respondent without due and proper application of mind, has raised erroneous conclusion and therefore, prays for allowing the writ petition.

7. Per contra, Mr.D.Muruganantham, learned Additional Government Pleader, who appears for the official respondents / respondents 1 to 3, has invited the attention of this Court to the counter affidavit and would submit that a perusal of the first page of the S.S.L.C. Mark Sheet of the petitioner's father would clearly disclose that alteration has been made without any authorization and genuineness of the same is doubtful. Therefore, the first respondent after due application of mind, has

rightly come to the conclusion as to the non-genuine nature of the Community Certificate issued to the petitioner and prays for dismissal of the writ petition.

8. This Court has carefully considered the rival submissions and perused the materials produced.

9. The petitioner's father was born as Christian and through Sri-la-Sri Arunagirinathar Sri Gnanasambanda Desika Parmachariya Swamigal, Madurai Aadheenam, he got converted as Hindu and he was also issued with Conversion Certificate, dated 25.05.1980. The petitioner's father was issued with the Community Certificate, dated 17.07.1980 by the Tahsildar, Sattur, stating that he belongs to Hindu Pallan Community and necessary alterations were also made in the service records as evidenced through the Service Roll of the Police annexed at Page 7 of the Typed Set of documents. It is to be pointed out at this juncture, the father of the petitioner has effected Gazette Publication as to the change of his Religion, vide Tamil Government Gazette, dated 02.07.1980 and the petitioner was born subsequently, i.e., on 15.10.1986 and therefore, he was born as a Hindu only. The petitioner has approached the second respondent and the second respondent had conducted personal enquiry, dated 04.09.2008, and given an enquiry report, dated 28.11.2008, certifying that the petitioner's community certificate is genuine.

10. The fourth respondent College, in which, the petitioner has underwent studies, had sent the Community Certificate of the petitioner for verification and the first respondent has called for report from second respondent, who vide letter, dated 28.11.2008, has made a positive recommendation and also stated that the Community Certificate issued to the petitioner is genuine. The only reason assigned by the first respondent for suspecting the genuineness of the Community Certificate of the petitioner is based on the first page of the S.S.L.C. Book of the petitioner's father. A perusal of the said document, which is enclosed in the Typed Set would reveal that the name P.Rajendra Barathi has been rounded up and the name P.Natarajan has been written and in Column No.2(i), Christian has been rounded up and Indian has been inserted and in the community column, Hindu Pallan community is found.

11. Even for the sake of arguments, the said entry cannot be termed as a genuine one or suspecting in nature, there are overwhelming documents in the Government Gazette Notification, dated 02.07.1980, the Community Certificate, dated 17.07.1980 issued to the father of the petitioner and alterations made as to the religious status of the petitioner's father in the service records and that apart, the third respondent after due verification, has also issued Community Certificate, dated 21.06.1997 to the petitioner and when the report was called for, the second respondent has also made a positive recommendation, vide his letter, dated 28.11.2008.

12. In the light of the overwhelming documents, this Court is of the considered view that the reasons assigned by the first respondent suspecting the genuineness of the Community Certificate issued to the petitioner are unsustainable and therefore, the same warrants interference by this Court.

13. In the result, the Writ Petition is allowed and the order dated 20.08.2009, passed by the first respondent is quashed. No costs. Consequently, M.P.(MD)No.1 of 2009 is closed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com