

B. Devadanam Vs. District Collector, Coimbatore and Others

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Court : Chennai

Decided On : Mar-03-1994

Reported in : AIR1995Mad94

Judge : Bakthavatsalam, J.

Acts : [Constitution of India](#) - Articles 341 and 342

Appeal No. : Writ Petition No. 15833 of 1991

Appellant : B. Devadanam

Respondent : District Collector, Coimbatore and Others

Advocate for Def. : Veerabadran, Govt. Adv.

Advocate for Pet/Ap. : N.P.V. Menon, Adv.

Judgement :

ORDER

1. The prayer in the writ petition is to issue a writ of certified mandamus, calling for the records in N.K. No. 36769/ 91/OW-3, on the file of the first Respondent and quash the order dated 25-9-1991 made thereon as illegal, null and void and consequently direct the second respondent to permit the petitioner to continue his studies in the Sankara Institute of Technology --second respondent herein.

2. The petitioner joined the second respondent Institute, in a three year diploma course, (Electronics). It seems that the petitioner's parents belong to the State of Kerala and the petitioner's father was working as a Scientist in the Botanical Survey of India, Coimbatore since 1965, and as such the petitioner studied at St. Thomas High School Coimbatore from the first standard till the Completion of plus two course, and thereafter he got admission in the second respondent Institute, on the basis of a community certificate issued by the Deputy Tahsildar North on 28-3-1989 wherein he was certified that the petitioner belongs to Hindu Vannan Community.

3. The petitioner alleges in the affidavit that since his parents belong to 'Mannan community' in Kerala State and that his parents were certified to belong to that community, in the transfer certificate issued by the St. Thomas Higher Secondary School, his community is mentioned as 'Mannan' community. The petitioner alleges that he got a certificate from the Taluk Office, Ambala-puzha on 29-6-1990 to the effect that he belongs to Hindu Mannan Community which is a Scheduled Caste Community in Kerala State. It is alleged that at time of admission, the principal of the second respondent insisted that the petitioner should produce a certificate from Deputy Tahsildar, Coimbatore North, regarding his community, and that accordingly he approached the Deputy Tahsildar and represented that he belongs to Mannan community in Kerala, which is a Scheduled Caste Community in Kerala. The petitioner produced (certificate) obtained from Kerala to the effect that he belongs to Mannan Community, and requested that he should be certified to belong to Mannan community. However, it seems that the Deputy Tahsildar took a stand that there is no community as Mannan community in Coimbatore District and that the Vannan community in Coimbatore district being equivalent to Mannan community in Kerala, he could give a certificate, certifying that he belongs to Hindu Vannan Community. The petitioner alleges in the affidavit that he never requested the Deputy Tahsildar to give him a certificate that he belongs to Vannan community, because Mannan community of Kerala is Scheduled Caste Community, whereas Hindu Vannan Community of Coimbatore is categorised as most Backward Class. It is also stated by the petitioner that he is not responsible for such a certificate being issued by the Deputy Tahsildar, Coimbatore stating that the petitioner belongs to Hindu Vannan Community. It seems that the Principal of

second respondent wrote to the Collector of Coimbatore on 6-3-1991 stating that in the transfer certificate, the community of the petitioner was mentioned as Mannan community and that there was a difference in the community mentioned by the Deputy Tahsildar, Coimbatore North and the community certificate issued by him. It seems that the Principal of the second respondent also wrote a letter on 25-3-1991 stating that the difference regarding the community given in the school certificate and the certificate issued by the Deputy Tahsildar of Keraia and the certificate issued by the Deputy Tahsildar, Coimbatore was because of the difference in the native usage. The petitioner alleges in the affidavit that Mannan of Kerala and Vannan of Tamil Nadu are both 'Salavai Thozhilalar' and that it should be recognised as either Most Backward Class or Scheduled Caste in Coimbatore district. It is further stated in the affidavit that the third respondent herein has conducted an enquiry and passed an order on 9-7-1991 stating that Mannan community is found only in Kanyakumari and Tirunelveli districts and that there is no basis for declaring him as belonging to Vannan community and as such, the certificate, issued by the Deputy Tahsildar should be cancelled. It is also stated that the third respondent did not declare even though recognised that the petitioner belonged to Mannan community and that he was entitled to a certificate to the effect that he belonged to that community. The petitioner alleges that the certificate issued by the Deputy Tahsildar, Coimbatore North was cancelled and that the third respondent did not come to the conclusion as to what community the petitioner belongs. It seems that the petitioner's representation to the respondent on 29-7-1991, the first respondent conducted an enquiry and passed orders on 25-9-1991 stating that a person belonging to Mannan community in Kerala cannot be declared as belonging to Vannan community in Coimbatore and that therefore the certificate issued by the Deputy Tahsildar, Coimbatore North on 31-7-1990 should be cancelled. It is also stated that the first respondent did not direct the Deputy Tahsildar, Coimbatore North to issue an amended certificate to the effect that the petitioner belongs to Mannan community. It seems the results of the first year examination have been withheld and the petitioner was not allowed to write to appear for the terminal examination of the second year. At this stage the petitioner has approached this court with this writ petition. The case of the petitioner is that in Kerala State, there is Mannan community as well as Vannan community and both

belong to Scheduled Caste and that by migration to Tamil Nadu and settling down at Coimbatore, he cannot forfeit the right to be categorised as belonging to a particular community. It is also stated that he is entitled to retain the same community whether he is in his native district or in another State to which he migrated. The petitioner also alleges that orders of respondents 1 and 3 that the petitioner did not belong to Vannan community should be declared as belonging to Mannan community. It is further stated that orders of respondents 1 and 3 are arbitrary, illegal and violative of principles of natural justice and that the petitioner is entitled to be declared as belonging to Mannan community. In such circumstances, the petitioner is before me.

4. When the writ petition was pending before this court, by way of interim orders of this court, the petitioner seems to have completed the course, and have written the examinations and the results have been withheld.

5. Though no counter affidavit has been filed the entire records are before this Court.

6. It is argued by the learned Government Advocate that the petitioner has been admitted into the second respondent Institute, in the academic year 1990-91, under the M.B.C. quota. Learned Government Advocate submits that when the Principal of the second respondent came across the transfer certificate of the petitioner, it is found that the petitioner belongs to Vannan called Mannan community and as such the Principal of the Institute wanted to know the genuineness of the certificate issued by the Deputy Tahsildar, Coimbatore. Learned Government Advocate further contended that the enquiries reveal that the origin of the petitioner is Mannan community in Kerala, that it is notified as a Scheduled Caste in Kerala, that there is no community called 'Mannan in Tamil Nadu except in Kanyakumari district and Senkottai taluk of Tirunelveli district is classified as Scheduled Caste. It is also contended that since the Government of India has issued a clarification that a S.C. or S.T. Person on migrating from the State of his origin to another State will not lose his status as SC/ST, but he will be entitled to the concessions/benefits admissible to the SC/ST from the state of his origin and not from the state to which he has migrated, the first respondent herein

cancelled the community certificate issued by the Deputy Tahsil-dar, Coimbatore, to the petitioner. Learned Government Advocate contended that the petitioner is not entitled to the benefits of the state as Scheduled caste because his origin is Kerala, and as such, even though he had a community certificate issued by the Tashildar of Ambaluzha he is not entitled to the benefits of M.B.C. candidates. Learned Government Advocate contended that averments of the petitioner that the principal, Sankara Polytechnic insisted him to produce a certificate from the Deputy Tahsildar, Coimbatore North and the Deputy Tahsildar, Coimbatore North had given a certificate mentioning the community of the petitioner as Vannan of his own will and that he had not asked him to issue a certificate as 'Vannan' are fictitious. It is further contended by the learned Government Advocate that the petitioner's father had applied for the community certificate, that he concealed the facts of his origin and the certificate already got from the said place of origin. Learned Government Advocate further contended that the petitioner's father made a representation to the second respondent on 27-1-1991 that the second respondent conducted an enquiry and passed an order on 15-9-1991 and declared that the person belonging to Mannan community in Kerala State cannot be declared as belonging to Vannan community in Coimbatore district. Learned Government Advocate further contended that the petitioner's father had applied for community certificate for his son and had given of false statement before the Village Administrative Officer, Sanganur that their community is 'Vannan' concealing the fact of their original community as 'Mannan'. It is also argued by the learned Government Advocate that the orders of the first respondent is based on facts and as per law.

7. I have considered the arguments of Mr. N.P.K. Menon the learned counsel for the petitioner and of Mr. Veerabadran, the learned Government Advocate and have gone through the files produced before me. As I have already stated, the petitioner has completed the course and results alone have been withheld. There cannot be any dispute that the petitioner belongs to 'Mannan' community prevailing in Kerala State. However, since the petitioner's father had been transferred to Tamil Nadu, the petitioner has been studying in school at Coimbatore and the transfer certificate issued by the school shows that the petitioner belongs to 'Mannan' community. But the community certificate issued by

the Deputy Tahsildar, Coimbalore North shows that the petitioner belongs to Hindu, Vannar community, which is classified as Most Backward community. This community certificate is dated 31-7-1990. When the community which is known as 'Mannar' is classified as Scheduled Caste in Kerala, surely the petitioner herein is not entitled to the concession given in Tamil Nadu to which Scheduled Caste community people are entitled to. Admittedly, there is no community, as 'Mannan' which is classified as caste in Coimbalore district. In *Marri Chandra Sekhar Rao v. Dean G.S. Medical College*, : [1990]2SCR843 it has been (the practice) that a candidate recognised as a member of ST/ SC in his original State on his migration to another State is not entitled to get benefit of reservation of seats and that it is however for the legislature to make appropriate legislation to effectively deal with the situation where migration involuntary such as due to transfer of place of employment or profession of the candidate's parent. In the very same judgment while construing the expressions 'for the purpose of this constitution' and 'in relation to that State' occurring in Arts. 341 and 342, it has been held that a person who is recognised as a member of ST/ SC in his original State will be entitled to all the benefits under the Constitution in that State alone and not in all parts of the country wherever he migrates. This principle has been followed in an un-reported decision of a Division Bench of this Court in *Sanjay Arya v. Director of Technical Education, Madras* (W.P. No. 9890 of 1993 dt 19-11-1993). By the impugned order, what the third respondent herein has done is that he has cancelled the certificate issued by the Deputy Tahsildar, Coimbatore North on 31-7-1990 and also dt. 28-3-1989 stating that the petitioner does not belong to the community of 'Vannan'. But at the same time, it has not been decided by the respondents whether the petitioner belongs to Scheduled Caste or most Backward Community. Though it can be said that the petitioner has not claimed as belonging to Scheduled Caste Community, in my view, there is no infirmity in the order passed by the respondents, wherein a conclusion has been arrived at by the respondents, that simply because the people belonging to Mannan' community in Kerala and 'Vannan' community in Tamil Nadu are professing the same profession, it cannot be said the community 'Mannan' in Kerala can be classified as 'Vannan' in Tamil Nadu. Surely, this Court cannot add one another community in the list of communities listed out by the Government in G.O. Ms. No. 242, S.W.D. dated 28-

3-1989. As such, this writ petition shall stand dismissed. No costs.

8. However, the petitioner has completed his course in the Polytechnic, as stated above. Had the respondents taken any steps to vacate the interim stay order granted by this Court, the petitioner would not have continued the course and finished the studies. In view of the fact that this Court has stayed the impugned order of the first respondent, and the petitioner has completed the course, it is open to the respondents to consider whether this is not a fit case where the results of the petitioner should be published, expeditiously.

9. Petition dismissed.

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