

R.Kandasamy

Vs

The Chief Engineer, Madras Port Trust

(Dr. A.S.Anand, K. Venkataswami JJ)

22.08.1997

ORDER

1. Leave granted.

2. The appellant filed a Writ Petition in the High Court of Madras seeking a Mandamus to the Chief Engineer, Madras Port Trust-respondent herein to accept the Community Certificate of the appellant dated 10.3.1987, issued by the Tehsildar, Mambalam, for the purpose of his appointment as a Mazdoor in the Madras Port Trust. It appears that the appellant was called for an interview for appointment to the post of Mazdoor by the respondent by the letter dated 19th August, 1995 and subsequently he was called to appear for an interview on 17th November, 1995 together with all the testimonials and certificates. The appellant appeared before the respondent and produced the relevant documents including the Community Certificate issued by the Tehsildar, Mambalam, Madras, dated 10.3.1987. That certificate was not acceptable by the Port Trust and on 20th November, 1995, the respondent-Port Trust required the appellant to produce "latest original Community Certificate" from the Revenue Divisional Officer. The request of the appellant to accept the certificate issued by the Tehsildar in 1987 and not to insist upon the production of fresh certificate from the Revenue Divisional Officer was turned down and the appellant was told that if he did not produce the certificate from the Revenue Divisional Officer on or before 30th December, 1995, his name would be left out of consideration for appointment. The appellant at that stage approached the High Court. A learned Single Judge of the High Court on 8th February, 1996, referred to G.O.M.S. NO. 2137 dated 11.11.89 to hold that the certificate required to be produced was from the Revenue Divisional Officer and that the certificate issued by the Tehsildar was not a valid certificate. The learned Single Judge accordingly dismissed the writ petition and declined to issue Mandamus, as prayed for.

3. A Writ Appeal was filed. That Writ Appeal came to be dismissed on 29th February, 1996 by the Division Bench. It is these two orders which have been put in issue before us in this appeal.

4. We have heard learned counsel for the parties and perused the record. Paragraph 4 of the G.O.M.S No.2137 dated 11.11.89 reads thus:

"The Govt. directs that the Community Certificates in respect of all communities included in the lists of scheduled Tribes, for the purpose of appointments in public Services under Central and State Govt., Public Sector Undertakings, quasi Govt. Institutions, Banks etc., shall hereafter, be issued only by the Revenue Divisional Officers."

5. On a doubt being raised regarding the validity of certificates issued by the Tehsildar prior to 11.11.89, the Joint Secretary to the Government of Tamil Nadu on 3.4.1991 informed the Collectors of various districts in Tamil Nadu that "that permanent Community Certificate issued to Scheduled Tribes by Tehsildars up 11.11.89 is valid." This communication had been placed on record in the High Court. From a combined reading of G.O.M.S. No. 2137 dated 11.11.89 and letter of the Joint Secretary dated 3.4.1991, (supra) it follows that whereas a Community Certificates after 11.11.89 is required to be issued by the Revenue Divisional Officer, but the Community Certificates issued by the Teshildar prior to 11.11.89 are valid certificates. In view of this position, it was not proper for the respondent to have insisted upon a fresh certificate to be produced by the appelland from the Revenue Divisional Officer as admittedly the Community Certificate produced by the appelland had been issued by the Tehsildar concerned in 1987, that is, prior to 11.11.89.

6. In our opinion the Community Certificate issued to a Scheduled Tribe candidate by the Tehsildar prior to 11.11.89 is a good and valid Community Certificate for all purposes so long as such a certificate is not canceled. The authorities cannot decline to take that into consideration and insist upon a fresh Community Certificate from the Revenue Divisional Officer.

7. The judgments of the High Court under the circumstances cannot be sustained. They are set aside and by a Mandamus we direct the respondent to take into consideration the Community Certificate issued to the appelland by the Tehsildar which had already been produced before it for the purpose of consideration of the appelland to the appointment.

8. We clarify that we have only dealt with the legal aspect of the matter and have not pronounced upon the genuineness and the correctness of the Community Certificate for which if there is any doubt(through none appear to have been raised in the High Court and none was projected before us either) the respondent shall have to hold a proper enquiry but till that certificate is not cancelled, the certificate shall be treated as a valid certificate issued by the competent authority. The appeal is allowed in the above terms. No costs.