

Madras High Court

C. Kathiravan vs 2 District Differently Abled ... on 7 April, 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.04.2016

CORAM

THE HONOURABLE Mr.JUSTICE S.MANIKUMAR

AND

THE HONOURABLE Mr. JUSTICE C.T. SELVAM

W.P(MD)No. 2355 of 2016

C. Kathiravan

... Petitioner

vs.

1 The District Collector  
Collectorate Complex  
Virudhunagar District  
Virudhunagar.

2 District Differently Abled Welfare Officer  
Social Welfare Office  
Virudhunagar  
Collectorate Complex  
Virudhunagar District  
Virudhunagar.

.. Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, directing the respondents to issue the National Identity Card for Differently Disabled persons to the petitioner based on his representation dated 26.10.2015 and pass further orders.

!For Petitioner : Ms. S. Rajalakshmi

^For Respondents : Mr.K.Chellapandian,  
Additional Advocate General assisted by  
Mr.M.Alagadevan, Special Government Pleader

:O R D E R

(Order of the Court was made by S.MANIKUMAR, J.,) Contending inter alia that he is suffering with disability of 75% to 100% "Hearing Impairment" and though a representation, dated 26.10.2015, has been made, to issue a National Identity Card, the same has not issued, Writ of Mandamus is sought for, by the writ petitioner, directing the District Collector, Virudhunagar District and the District Differently Abled Welfare Officer, Welfare Office, Virudhunagar, the respondents 1 and 2, to issue National Identity Card to him.

2. Finding that there exists some public interest in the matter, vide order, dated 02.02.2016, the Writ Court, directed the Registry to place the matter before this Bench and thus, it is listed before us.

3. Learned Special Government Pleader, took notice. Mr.K.M. Kanagaraj, District Differently Abled Welfare Officer, Virudhunagar District, has submitted a Note, containing enclosures. According to him, as per Section 2(t) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, a person suffering from not less than 40% of any disability, as certified by a Medical Authority, is eligible for National Identity Card. Section 2(i) of the said Act classifies various disablements, viz., (i) blindness; (ii) low vision; (iii) leprosy-cured;

(iv) hearing impairment; (v) loco motor disability; (vi) mental retardation; and (vii) mental illness;

4. National Identity Card is issued to a Differently Abled Person indicating the type of disability, percentage of disablement, personal details of the individual, with the photograph of the individual. The card is issued and countersigned by the District Differently Abled Welfare Officer. Extent of disability is mentioned in the card. Note further reads that as per the guidelines, the following Medical Practitioners, are authorised to issue Disability Certificate :-

Sl.

No.

Category of disabilities Specialist Cerebral Palsy A Medical Practitioner in Physical Medicine and Rehabilitation or Orthopaedics or Paediatrician or Paediatric Neurologist or Psychiatrist.

Hearing impairment A specialist in the field of Ear Nose Throat Leprosy Cured person A Medical Practitioner in Physical Medicine and Rehabilitation or Orthopaedics or Dermatologist Locomotors disability other than amputation or complete permanent paralysis of limbs A Medical Practitioner in Physical medicine and Rehabilitation or Orthopaedics Mental illness Psychiatrist Mental Retardation A Paediatrician or Paediatric Neurologist of Psychiatrist in respect of children with Mental Retardation below the age of twelve years. A Psychiatrist in respect of for adults above the age group of twelve years.

Low Vision A specialist in the field of Ophthalmology Autism A Psychiatrist or Paediatrician or Neurologist Based on the Doctor's Certificate, if the percentage of disability is 40% and above, National Disability Card would be issued to the Differently Abled Person with registration number, along with the personal information of the concerned individual.

5. On the aspect of awareness, Mr. K.M. Kanagaraj, the District Differently Abled Welfare Officer, Virudhunagar, submitted that special camps are being organised by constituting a team of Doctors. In Virudhunagar District, on every Thursday, periodical assessment camp is organised in the office of the District Differently Abled Welfare Officer, located within the District Collectorate Complex, Virudhunagar District. A team of Doctors is deputed from various hospitals by the Joint Director of Health and Medical Services. This is done at the headquarters level.

6.The District Differently Abled Welfare Officer, Virudhunagar District, in his note, has further submitted that there is another scheme called 'Sarva Siksa Abiyan Camp'. This is a separate scheme conducted by the Education Department. Education of the Differently Abled children, is one of the components in Sarva Siksa Abiyan Camp.

7.At the Panchayat Union level, there are 4 special teachers having the qualification of degree or diploma in special education and that there would be a physiotherapist. Inter alia, the duties and responsibilities are to enumerate all the category of Differently Abled, in the age group of 0-18 in all schools. He also submitted that Special Assessment camps at the block level, for identification of Differently Abled, are organised and Disability Cards are issued.

8.According to him, there is yet another scheme called "Pudu Vazhvu Project Camps", which is implemented by the Rural Development and Panchayat Raj Department, in selected blocks. In so far as Virudhunagar District is concerned, this scheme is being conducted at Sattur, Vembakottai, Watrap and Narikudi Panchayat Union, covering 165 villages of Virudhunagar District, with the assistance of World Bank. According to him, one of the main goals for conducting the camps, is to identify Differently Abled Persons and to issue Disability Cards and to reduce the poverty of rural poor, including Differently Abled and to create awareness, for getting various assistance.

9.He has also added that the Public Health Department has arranged a camp at the Primary Health Centre level, focusing the issuance of disability certificate, for National Identity Cards. It is also his observation that under the MLA Constituency Scheme, 5 lakh rupees has been allotted for the welfare of the Differently Abled. This amount can be used for organising camps only for the Differently Abled persons, for distribution of identity cards and other useful purposes.

10.He submitted that a vehicle is provided in all the districts to be used as a Mobile Therapy Unit. There will be a display of all the schemes in the Collector's Office notice boards, and in the Special Schools. The Extension Officer (Social Welfare) in the Panchayat Union Office is dealing with the liaison work, at the Union Level. There is also a District Co- ordination Committee to discuss about the implementation of various welfare schemes. The main Agenda is distribution of National Disability Cards to the Differently Abled persons. According to him, the following field workers from the concerned departments have been given training, regarding the Disability Welfare Schemes :-

Sl. No. Department Category of Field Workers Social Welfare Department

1. Rural Welfare Officer Women

2. Extension Officer Social Welfare Sarva Siksa Abiyan

1. Special Educators

2. Physiotherapist Pudhu Vazhu Thittam (Rural Development Department)

1. Village Poverty reduction Committee

2. Team leaders

3. Community level facilitators (village level)

4. Special Group Facilitators (Cluster level) Integrated Child Welfare Scheme Anganwadi Workers

11. On the basis of the instructions given by the State Commissioner for the Differently Abled, Chennai, Mr.K.Chellapandian, learned Additional Advocate General, submitted that as per the guidelines for issuance of Identity Cards to Persons with Disability, by the Ministry of Social Justice and Empowerment, vide Notification No.16-18/97-N1, dated 1.6.2001, Differently Abled persons are eligible to obtain National Identity Cards. As per G.O. Ms. No.21, Welfare of Differently Abled Persons (DAP 2.2) Department, dated 17.06.2011, a person with disability can get a Disability Certificate from a Medical Authority or a Chief Medical Officer. But for obtaining a National Identity Card, persons with Disability may have to approach the District Differently Abled Welfare Officer of the concerned District, to which he belongs, with the Disability Certificate and District Code.

12. Learned Additional Advocate General further submitted that as of now, 11,19,978 persons with disabilities have been issued with Identity cards, in Tamil Nadu. As regards awareness, he submitted that display boards of the scheme for issuance of National Identity Cards and other welfare schemes, are kept in the Office of the District Differently Abled Welfare Officers, and at the Collectorates.

13. During the year 2007- 2008, the Government have allotted Rs50,000/- to I.E.C material display boards. The District Differently Abled Welfare Officers also have mobilised funds for displaying the boards, at prominent public places. Adequate publicity is also given, regarding issuance of National Identity Cards, during the Grievance Day conducted by the District Collectors, and in the Assessment Camps, conducted for implementing MLA Constituency Development Schemes, the importance and need for issuance of identity cards to the Differently Abled persons, have been explained. To facilitate issuance of identity cards through State Resources Camps, training has been given to persons from Thiruvallur, Chennai, Kancheepuram Districts, at the Board Resources cum Training Centre, K.K. Nagar, Chennai, so that persons with disability need not travel from Thiruvallur, Chennai and Kancheepuram District, for registration and issue of identity cards.

14. The District Differently Abled Officer has further stated that earlier on 22.12.2014, the District Planning Manager, Puthu Vazhvu Thittam, Virudhunagar District, has written a letter to the District Differently Abled Welfare Officer, Virudhunagar District, stating that in Sathoor, Vembakkottai, Vathirayiruppu and Narikudi, in Virudhunagar District, Puthu Vazhvu Thittam was implemented from 2011, and most of the differently disabled persons were issued with identity cards, but, for the last two years, identity cards were not issued. Therefore, he has requested the District Differently Abled Welfare Officer, Virudhunagar District, to allot dates for conducting camps. Responding to the above, camps have been conducted on 20.01.2015 in Sathoor Panchayat Union, on 21.01.2015, at Vembakkottai Panchayat Union, on 23.01.2015 in Vathirayiruppu Panchayat Union and on 27.01.2015 in Narikudi Panchayat Union, and four Doctors, were deputed for that purpose. As per the records, furnished by the District Differently Abled Welfare Officer, there is a letter of the District Planning Manager, Puzhu Vazhvu Thittam, Virudhunagar District, in

Na.Ka.No.462/A3/2015, dated 16.03.2015, addressed to the District Differently Abled Welfare Officer, Virudhunagar District requesting issuance of Identity Cards to 74 children, based on which, the District Differently Abled Welfare Officer, in Na.Ka. No.243/E.Ma.Aa/14 dated 16.03.2015, has requested the Joint Director (Health Services), to depute one more Paediatrician along with other Medical Officers, to examine the Differently Abled children, for issuance of identity cards.

15. In so far as Virudhunagar District is concerned, a meeting has been conducted on 06.01.2015 and Welfare schemes under the Differently Abled Department were stated to have been discussed. It is recorded, that as on 31.12.2014, about 24,794 Differently Abled persons have been issued with National Identity Cards. Upto 31.09.2015, about 25,532 Differently Abled persons have been issued with National Identity Cards. Details furnished by the District Differently Abled Welfare Officer of Virudhunagar District shows that as on 31.01.2016, about 26,240 persons have been issued with National Identity Cards. For the period upto 31.01.2016, in the age group of 0-18, there is not even one person issued with National Identity Card. No person above the age of 60 years, has been issued with any National Identity Card.

16. Publication is stated to have been made in a Tamil newspaper circulated in Virudhunagar District, notifying issuance of National Identity Cards. According to the District Collector, Virudhunagar District, those who want to avail the benefits of the schemes, for Differently Abled Persons, should compulsorily have a National Identity Card. Those who want to obtain the National Identity Cards should apply to the District Differently Abled Welfare Officer, along with a copy of the ration card and 4 photographs. Vide proceedings in Na.Ka. No.2366/A4/2015 dated 17.6.2015, the Deputy Director of Health Services, Virudhunagar, has addressed a letter to the District Differently Abled Welfare Officer, Virudhunagar, directing the latter to conduct camps, at various schools for the purpose of issuance of Medical certificates, enabling the Differently Abled persons to obtain identity cards. Camps seemed to have been conducted in August 2015, in some of the schools in Virudhunagar District. Doctors and Specialists have participated and recommended for issuance of National Identity Cards.

17. Though, the learned Additional Advocate General submitted that as of now about 11,19,978 persons with disabilities have been provided with Identity Cards in Tamil Nadu, district wise details have not been furnished. Similarly, no specific details have been furnished regarding the awareness, in rural areas.

18. It is stated that publicity has been given regarding the issue of identity cards during Public Grievance Days by the District Collectors, and Display boards are kept in the Office of the District Differently Abled Welfare Officers, in the respective District Collectors. Though it is stated that a vehicle is allotted to each District, to bring awareness of the schemes through Mobile Therapy Units, we are of the considered view that the above is not adequate. There are many Homes for the children and aged, recognised by the Government. There are many Institutions, where mentally retarded persons get treatment. There are hospitals, where people with 40% disability and above, get treatment. Affixture on the notice boards of the District Differently Abled Welfare Officers/Collectors, alone is not sufficient. As per the news item published, in order to avail the benefits under the schemes issued by the Government, from time to time, Differently Abled Persons

should have a National Identity Card. Unless and until, there is adequate awareness about the issuance of National Identity Cards, many Differently Abled persons may not be in a position to receive the benefits available under the schemes.

19. Enumeration of Differently Abled persons, should be done from the village level. The same can be done by the Ministry of Social Welfare Department, through the State Rehabilitation Commissioner. Ministry of Social welfare/State Commissioner for Differently Abled Persons should issue necessary and suitable directions, so that awareness about the issuance of the National Identity Cards reaches every village. The School Education Department/ Collegiate Education Department, shall issue necessary instructions to all the Assistant Educational Officers, District Educational Officers/ Chief Educational Officers, Regional Joint Directors of the Collegiate Education, and other competent authorities to take suitable steps to create awareness about the issuance and importance of National Identity Cards in all the Schools/Government aided or aided/unaided Colleges. Ministry of Social Welfare should co-ordinate with the Education Department and that the latter be requested to instruct all the Headmasters/ Headmistresses of all the schools, to affix in the notice boards of the schools, so as to enable the parents/ children studying in the schools, to obtain the disability certificate and consequently, National Identity Cards.

20. Ministry of Social Welfare Department in co-ordination with the Ministry of Panchayat and Rural Development Department, shall take steps to create awareness, about the issuance of National Identity Cards, in all Villages, Towns etc., to affix notices in the Village Community Centres, Panchayat Offices, Panchayat Union Offices, Municipalities.

21. Instructions be issued to persons in-charge of Anganwadis, Noon Meal Centres, Special Schools, under the department of Social Defence, to affix notices in the office display boards. Parents of the children in the special schools be informed of the issuance of National Identity Cards, so as to enable them to apply to the District Differently Abled Welfare Officers. District Child Protection Units be directed to send necessary communication to all the homes, where there are children in need of care and protection. Superintendents of the respective homes be directed to affix notices in their notice boards, so that parents of the children or the persons in-charge of respective homes, can make an application to the District Differently Abled Welfare Officers of the concerned districts, for issuance of National Identity Cards to Differently Abled children.

22. There are many homes recognised under the Mental Health Act, run by NGOs. Rehabilitation Commissioner, Department of Social Welfare, in co- ordination with the State Nodal Officer under the Mental Health Act, shall issue necessary directions so that issuance of National Identity Cards, to the Differently Abled persons is made known to all the mental health institutions, thereby, enabling the parents / guardians for those persons, or persons in-charge of the institutions, to make necessary applications to the District Differently Abled Officers, under whose jurisdiction the Homes/ Institutions are functioning. State Commissioner, in co-ordination with the Director of Public Health/ Director of Medical Services, Chennai, shall issue necessary directions to all the Hospitals, Primary/District and higher levels, so that the concerned Medical Boards can issue Disability Certificates and simultaneously, make necessary recommendations to those assessed to disability, for issuance of National Identity Cards. The Legal Services Authority, High Court,

Madras, can also take adequate measures in conducting awareness camps at Taluk and higher levels. During Lok Adalats, when assessment of more than 40% disability is found, the concerned medical officer himself can issue certificate and make recommendation to the District Differently Abled Officers, for issuance of National Identity Cards.

23. The District Collectors be directed to make paper advertisements/ news items/ circulate pamphlets/ affix posters, at important places like bus stand, railway station etc., so that public is aware of issuance of National Identity Cards. As regards the prayer sought for in this writ petition, the petitioner is directed to submit the required documents to the District Differently Abled Officer, Virudhunagar District, the 2nd respondent herein. On receipt of the documents along with the application, the said authority is directed to proceed further, as per the guidelines and if the conditions for issuance of National Identity Card, are satisfied, issue the same.

With the above directions, the writ petition is disposed of. No costs.

To

- 1 The District Collector  
Collectorate Complex  
Virudhunagar District  
Virudhunagar.
  
- 2 District Differently Abled Welfare Officer  
Social Welfare Office  
Virudhunagar  
Collectorate Complex  
Virudhunagar District  
Virudhunagar..