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WP.No.25779 of 2024

In the High Court of Judicature at Madras

**Reserved on :
20.9.2024**

**Delivered on :
24.9.2024**

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.25779 of 2024
& WMP.No.28153 of 2024

P.Chandiran

Vs

...Petitioner

- 1.The Director General, Central Industrial Security Force,
CGO Complex, Lodhi Road,
New Delhi.
- 2.The Deputy Inspector General,
Central Industrial Security Force,
RTC Arakonam, Suraksha Campus,
Ranipet District-63152.
- 3.The Commandant, Central Industrial Security Force,
RTC Arakonam, Suraksha Campus,
Ranipet District-63152.
- 4.The Tahsildar, Omalur Taluk.
(R4 - suo motu impleaded as per
order dated 03.9.2024 by NAVJ)

...Respondents

PETITION under Article 226 of The Constitution of India praying
for the issuance of a Writ of Certiorari to call for the records relating to
the Memorandum and Article of Charges issued in proceedings No.V-



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15014/ KAUSUB/ KSPK(A)/ ANU/ Major-06/ PC/ 2024/ 3245 dated 22.8.2024 on the file of the 3rd respondent and quash the same.

For Petitioner : Mr.S.Doraisamy
For R1 to R3 : Mr.AR.L.Sundaresan, ASG-I
assisted by
Mr.K.Ramanamoorthy, CGSC
For R4 : Mr.S.Balamurugan, GA

ORDER

This writ petition has been filed challenging the Memorandum containing the Article of Charge issued by the third respondent dated 22.8.2024.

2. The case of the petitioner is as follows :

(i) The petitioner belongs to Kuruman's community, which comes under the scheduled tribe (ST) category. He obtained a community certificate from the fourth respondent namely the Tahsildar, Omalur on 11.12.1986 in this regard. At a later point of time, he joined the Central Industrial Security Force (CISF) in the year 1987 and his selection was based on the said community certificate issued to him. The petitioner had put in service at various stations without any blemish.



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(ii) The grievance of the petitioner is that the third respondent, through the impugned memorandum containing the article of charge dated 22.8.2024, initiated disciplinary proceedings against the petitioner questioning the authenticity of the community certificate that was issued in favour of the petitioner. The said memorandum containing the article of charge has been put to challenge in this writ petition.

3. When the matter came up for hearing on 03.9.2024, this Court passed the following order :

"The Tahsildar, Omalur Taluk is suo motu added as the 4th respondent in this writ petition.

2. Mr.AR.L.Sundaresan, learned Additional Solicitor General takes notice on behalf of respondents 1 to 3.

3. Mr.S.Balamurugan, learned Government Advocate takes notice on behalf of the impleaded 4th respondent.

4. The learned counsel for the petitioner shall serve the copy of the typed set to the learned Government Advocate appearing on behalf of the 4th respondent. The learned Government Advocate shall take specific instructions from the Tahsildar, Omalur as to whether the Caste Certificate that is found at Page No.24 of the typed set of papers was issued in favour of the petitioner. This clarity will take care of the grievance expressed by both sides.

5. The learned Additional Solicitor General



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appearing on behalf of respondents 1 to 3 submitted that respondents 1 to 3 are not intending to go into the validity of the Caste Certificate that was given in the name of the petitioner and the same can only be tested before the State Level Committee. However, the limited ground on which the proceedings have been initiated against the petitioner is that no such Caste Certificate was given in favour of the petitioner and that the Caste Certificate that was produced by the petitioner is a concocted document. The charge memo has been issued to the petitioner only on this ground.

*6. Per contra, the learned counsel for the petitioner submitted that the Caste Certificate was given in favour of the petitioner during the year 1986 and if the relevant records are not available before the concerned Tahsildar office, that does not automatically result in coming to a conclusion that the Caste Certificate is a concocted document. The learned counsel submitted that the respondents 1 to 3 cannot go into the issue of testing the validity of the Certificate and that is something to be tested by the State Level Committee as per the judgment of the Apex Court in **Kumari Madhuri Patil's** case.*

7. The written instructions that are going to be given by the 4th respondent in this case will resolve the issue in the present writ petition. Hence, the learned Government Advocate shall follow up with the 4th respondent and get clear written instructions before the next date of hearing.

8. Post this case at the end of the motion list on 18.09.2024. In the meantime, the departmental proceedings shall be kept in abeyance."



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4. The said order dated 03.9.2024 passed by this Court gives a clear understanding about the background of this case and the actual issue that is involved in this case.

5. Pursuant to the said order dated 03.9.2024, the fourth respondent issued written instructions dated 10.9.2024 to the learned Government Advocate. The relevant portions from the said written instructions are extracted as hereunder :

"சேலம் மாவட்டம், ஓமலூர் வட்டம், வட்டாட்சியர் அலுவலக 1986 ஆம் ஆண்டிற்கான சாதிச் சான்று குறித்த பதிவேடோ மற்றும் திரு. சந்திரன், த.பெ. பெருமாள் என்பவருக்கு வழங்கப் பட்டதாக தெரிவிக்கும் இந்து - குருமன்ஸ் சாதிச்சான்று தொடர்பான வேறு ஆவணங்களோ கோப்புகளோ ஏதும் இவ்வலுவலகத்தில் இல்லாத நிலையில் சாதிசான்றின் உண்மைத்தன்மை குறித்தான விவரம் கண்டறிய இயலவில்லை.

சாதிச்சான்று உண்மைத்தன்மை கோரும் திரு.சந்திரன், த.பெ. பெருமாள் என்பவருக்கு வழங்கப்பட்டதாக தெரிவிக்கும் சாதிச்சான்றில் குறிப்பிடப்பட்டுள்ள கணவாய்புதூர் கிராமமானது தற்போது காதையாம்பட்டி வட்டத்தில் அமைந்துள்ளது. காதையாம்பட்டி வட்டாட்சியரால் மேட்டூர் சார் ஆட்சியர் அவர்களுக்கு அனுப்பப்பட்ட கடித ந.க.816/2024/அ4 நாள் : 25.6.2024 இன் படி மேற்படி மனுதாரரின் இருப்பிடமான காதையாம்பட்டி வட்டத்திலும் மனுதாரர் வசிப்பிட கிராமத்திலும்



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இந்து - குருமன்ஸ் (ST) வகுப்பைச் சார்ந்தவர்கள்
எவருமில்லை என தெரிவித்துள்ளார்கள்.

எனவே, சேலம் மாவட்டம், காதையாம்பட்டி
வட்டம், கணவாய்புதூர் கிராமம் என்ற
முகவரியைச் சார்ந்த திரு.சந்திரன், த.பெ.
பெருமாள் என்பவருக்கு 1986ம் ஆண்டிற்கான
சாதிச்சான்றிதழ் வழங்கப்பட்டதாக தெரிவிக்கும்
பதிவேடோ, பிற ஆவணங்களோ கோப்புகளோ
எதுவும் இவ்வலுவலகத்தில் இல்லாத நிலையினை
கருத்தில் கொண்டும், மேற்படியாரின் வசிப்பிட
கிராமத்திலேயே இந்து - குருமன்ஸ் (ST)
வகுப்பை சார்ந்தவர்கள் எவருமில்லை என்ற
காதையாம்பட்டி வட்டாட்சியரின் அறிக்கையின்
அடிப்படையிலும் திரு.சந்திரன், த.பெ. பெருமாள்
என்பவரால் சமர்ப்பிக்கப்பட்டுள்ள சான்று
மேய்தன்மையுடையதல்ல என்பதை தெரிவித்துக்
கொள்கிறேன்."

6. When the matter came up for hearing on 18.9.2024, the learned counsel for the petitioner wanted to file an additional affidavit along with additional typed set of papers in order to clarify the doubts that have arisen pursuant to the written instructions given by the fourth respondent. Accordingly, this Court adjourned the matter and posted the case for hearing on 20.9.2024.

7. When the matter was taken up for hearing on 20.9.2024, the learned Government Advocate appearing for the fourth respondent



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once again produced another written instructions dated 19.9.2024 given by the fourth respondent, the relevant portions of which are extracted as hereunder :

"i. மனுதாரருக்கு 1986ம் ஆண்டில் இந்து - குருமன்ஸ் (ST) சாதிச்சான்றிதழ் வழங்கப்பட்டதாக தெரிவித்து சமர்ப்பிக்கப்பட்டுள்ள சாதிச்சான்றிதழின் உண்மைத் தன்மையினை உறுதி செய்யக்கூடிய பதிவேடோ, கோப்புகளோ எதுவும் ஒமலூர் வட்டாட்சியர் அலுவலக பதிவறையில் இல்லை.

ii. காதையாம்பட்டி வட்டாட்சியரின் அறிக்கையானது, காதையாம்பட்டி வட்டத்திலும், மனுதாரர் வசிப்பிடமாக தெரிவித்த கணவாய்புதூர் கிராமத்திலும் இந்து - குருமன்ஸ் (ST) என்ற வகுப்பைச் சார்ந்த சமூகத்தினர் எவருமில்லை என்பதை மெய்பிக்கிறது.

iii. அசல் சாதி சான்று ஒருவரிடம் இருக்கும் நேர்வில் மட்டுமே சாதி சான்றினை அடிப்படையாக வைத்து தேவைக்காக அவ்வப்போது படிவ வடிவமாக சான்றொப்பமிட்டு வழங்கப்பட்டு வருவது வழக்கமாகும். மனுதாரர் மாண்புமிகு சென்னை உயர்நீதிமன்றத்தில் சமர்ப்பித்துள்ள சான்றானது சாதி சான்றே அல்ல.

iv. வட்டாட்சியரால் வழங்கப்படும் அசல் சான்றானது மனுதாரர் நிரந்தரமாக பயன்படுத்த ஏதுவாக அட்டை வடிவிலும், வட்டாட்சியர் கையொப்பத்திற்கு அருகாமையில் தமிழ்நாடு அரசின் கோபுர முத்திரை பதிவிட்டும் வழங்குவதே நடைமுறையாகும். எந்த காலகட்டத்திலும் தபால்களுக்கு இடப்படும் தேதி முத்திரை சான்றுகளுக்கு பதிவிடும் நடைமுறை



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இருந்ததில்லை."

8. Heard the learned counsel for the petitioner, the learned Additional Solicitor General-I assisted by the learned Central Government Standing Counsel appearing for respondents 1 to 3 and the learned Government Advocate appearing for the fourth respondent.

9. The main ground that was urged by the learned counsel for the petitioner is that the third respondent, under the guise of conducting disciplinary proceedings against the petitioner, is attempting to go into the genuineness of the community certificate issued to him by the Competent Authority and test the contents therein, which is beyond the power and jurisdiction of an employer and that the report submitted by the fourth respondent to the effect that none at Kanavaipudur Village belongs to Kuruman's community, is erroneous and unsustainable. To substantiate the said submission, the learned counsel relied upon various community certificates that were issued to various persons by the Tahsildar, Omalur and the Sub-Collector, Mettur for the period from 1987 to 2024. In fact, the learned counsel pointed out that the Sub-Collector, Mettur namely Mrs.N.Ponmani, who had given an adverse report to the employer of



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the petitioner, had issued three community certificates in the year 2024 to three persons belonging to Kuruman's community.

10. In order to further substantiate his submissions, the learned counsel for the petitioner relied upon a portion of the judgment of a Division Bench of this Court in the case of ***The New India Assurance Co. Ltd., rep.by its Regional Manager and Senior Divisional Manager-cum-Disciplinary Authority, the New India Assurance Co. Ltd. Vs. R.Venkataraman [reported in 2005 (1) MLJ 72]*** and contended that even the revenue officials cannot go into the genuineness of the community certificate issued by them, that at best, they can forward a complaint to the Government with a request to place it before the State Level Scrutiny Committee as per the judgment of the Apex Court in the case of ***Kumari Madhuri Patil Vs. Additional Commissioner, Tribal Development and Others [reported in AIR 1995 SC 94]*** and that the disciplinary proceedings can be initiated only if the State Level Scrutiny Committee ultimately finds that the community certificate relied upon by the employee is not genuine.

11. The learned counsel for the petitioner also relied upon an order passed by a Division Bench of this Court in the case of ***Minor***



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**G.Bharanidharan rep.by father & natural guardian
D.Gurumurthy Vs. Revenue Divisional Officer, Mettur Dam,
Salem District, Salem [W.P.No.21093 of 2011 dated
06.8.2013].**

12. The relevant portion in the said order dated 06.8.2013 passed by the Division Bench of this Court is extracted as hereunder :

"6. It is not disputed that the father and mother of the petitioner were issued with community certificates in the year 1978 and 1986 respectively that they belong to 'Konda Reddi' Community. The stand taken by the learned Additional Government Pleader is that no reliance can be placed on those certificates since they do not contain the serial number and register number. After having given a reply under the RTI Act that no records are available with them with regard to the number of community certificates issued to Scheduled Tribes during the year 1950 to 1989, we are unable to understand as to how this stand taken by the learned Additional Government Pleader that those certificates cannot be acted upon and that they are fabricated can be accepted. Even assuming that they are fabricated certificates, what action has been initiated by the respondent in this regard is not brought to the notice of this Court. The only answer given is that there is no serial number and no register number in the said certificates. In that case, a duty is cast upon the respondent to prove whether in 1978, register numbers and serial numbers were assigned to the community certificates issued during that period. In the absence of



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records with them, we are not able to understand as to how the respondent has come to this conclusion. Yet another aspect to be noted is that with regard to the petitioner's cousin's community certificate, the stand taken by the learned Additional Government Pleader before this Court is that he is having the original records with him. Under the RTI Act, the answer given is no records are available with regard to the community certificates issued from 1950 to 1989 and that reply was given in February, 2013. Now, the learned Additional Government Advocate has submitted before this Court that he is having the original records in respect of the community certificate issued to the petitioner's cousin. We are not able to understand as to how, after giving such a reply to the query raised under the RTI Act, original records are available to be produced. This stand of the learned Additional Government Pleader would only mean that the information given under the RTI Act is not correct."

13. Per contra, the learned Additional Solicitor General-I appearing on behalf of respondents 1 to 3 submitted that the third respondent is not intending to go into the validity of the community certificate issued in favour of the petitioner, that he is also not intending to go into the contents of the community certificate issued in favour of the petitioner and that the disciplinary proceedings is now confined only to the issue as to whether the community certificate relied upon by the petitioner is a genuine document or it is a forged and fabricated document.



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14. The learned Additional Solicitor General-I further submitted that the employer can always question the genuineness of a certificate, which has nothing to do with going into the validity or the contents of the community certificate, that if, ultimately, the community certificate itself is found to be a fabricated document, the employer can always proceed further with the disciplinary proceedings against an employee, that none of the judgments relied upon by the learned counsel for the petitioner will apply to the facts of this case and that this Court cannot assume the role of a Disciplinary Authority while exercising its jurisdiction under Article 226 of The Constitution of India and conduct an inquiry as to the genuineness of the community certificate since such inquiry has to be left in the hands of the employer. He ultimately sought for dismissal of this writ petition.

15. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned memorandum containing the article of charge.

16. The short issue that arises for consideration in this writ petition is as to whether the impugned memorandum containing the article of charge is liable to be interfered by this Court.



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17. In order to question the scope of inquiry that is going to be carried out by the third respondent, this Court must carefully look into the article of charge that was issued to the petitioner.

18. The article of charge specifically stated that the petitioner fraudulently obtained employment in a reserved quota under the ST category by placing reliance upon a community certificate, which was not issued by the Competent Authority in favour of the petitioner. In brief, the scope of inquiry in this case is confined only to find out as to whether a community certificate was actually issued in favour of the petitioner or the petitioner has made use of a forged and fabricated community certificate to secure employment in the reserved quota under the ST category.

19. It is now too well settled that an employer cannot go into the genuineness or correctness of the contents of a community certificate issued by a Competent Authority in favour of a person. The community certificate will continue to be treated as a genuine document and the contents therein will be treated as correct unless and until the community certificate is cancelled in a manner known to law. The role of the employer kicks in only when the State Level Scrutiny Committee ultimately cancels the community certificate and the same may give



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rise to a cause of action to initiate the disciplinary proceedings.

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20. If the employer entertains any doubt about the validity of a community certificate, he can only forward a complaint to the State Level Scrutiny Committee and wait for its final decision. Till a final decision is taken by the State Level Scrutiny Committee, the employer has to necessarily act upon the community certificate and he cannot initiate any disciplinary proceedings nor harass an employee on the ground that the community certificate has been forwarded to the State Level Scrutiny Committee for verification. There is a small window available to an employer to verify the genuineness of the community certificate and that is by verifying from the concerned Competent Authority as to whether a community certificate was actually issued in favour of the employee.

21. In other words, an employer can always counter check as to whether the community certificate relied upon is a genuine document or is a forged and fabricated document. If, ultimately, it turns out to be a forged and fabricated document, such a community certificate becomes non est in the eye of law and therefore, the employer can always initiate the disciplinary proceedings against the employee for making use of a fabricated and forged document to secure



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employment in the reserved quota under the ST category.

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22. The learned Additional Solicitor General-I appearing on behalf of respondents 1 to 3 made it abundantly clear that the inquiry now contemplated is confined only to find out as to whether the petitioner relied upon a forged and fabricated community certificate. This doubt was entertained in the mind of the employer based on a report that was received from the Sub-Collector concerned. He further made it clear that the third respondent is not intending to go into the validity or the correctness of the contents of the community certificate standing in the name of the petitioner.

23. Having narrowed down the scope of the controversy, this Court must go into the last issue as to whether this Court can conduct an inquiry to find out the genuineness or otherwise of the community certificate. In other words, can this Court sit in the chair of the Disciplinary Authority and conduct an inquiry or it has to be left open to the Disciplinary Authority to make an inquiry.

24. The High Court, exercising its jurisdiction under Article 226 of The Constitution of India, is vested with limitless power in order to render substantial justice. However, the judicial pronouncements have



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brought in self imposed restrictions while exercising the writ jurisdiction. This has been done only to ensure that there is some consistency in exercising the writ jurisdiction and that the Courts do not become an unruly horse.

25. In service jurisprudence, the employer must be given some elbow room while dealing with the employee. This Court, exercising jurisdiction under Article 226 of The Constitution of India, should not throttle the employer and start interfering with every action that is proposed to be taken by the employer. This is subject to the condition that the action is not tainted with mala fides and the action is taken by an Authority vested with such power and jurisdiction.

26. The learned counsel for the petitioner placed certain materials before this Court to substantiate that several community certificates were issued at Kanavaipudur regularly by the Competent Authority till this year. He also relied upon the report given by the fourth respondent wherein it has been stated that the relevant records are not available in the office.

27. If this Court relies upon all these materials and renders a finding, then this Court will be virtually adorning the role of a



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Disciplinary Authority, which should never be done while exercising the jurisdiction under Article 226 of The Constitution of India. All the grounds that were raised by the learned counsel for the petitioner can always be put forth before the employer and the concerned Authority belonging to the Revenue can always be summoned and questioned regarding the report submitted in this behalf. Ultimately, the petitioner can always establish that the community certificate that has been issued to him is a genuine document and that it is not a forged and fabricated document as is sought to be projected by the respondents.

28. After completion of the inquiry, if the employer ultimately finds that the community certificate is a forged and fabricated document, the disciplinary proceedings can be proceeded further. On the other hand, if it is found that the community certificate was, in fact, issued by the Competent Authority or if the Competent Authority is not in a position to exactly conclude as to whether the community certificate is genuine or otherwise due to non availability of the records, the third respondent must necessarily stop the inquiry. Thereafter, the third respondent can only forward the complaint to the State Level Scrutiny Committee to go into the genuineness and validity of the community certificate.



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29. A mere doubt or a strong suspicion, by itself, will not be a ground to initiate the disciplinary proceedings and the inquiry must necessarily result in a firm conclusion that the community certificate is, in fact, a forged and fabricated document. Unless that happens, the third respondent cannot proceed further with the disciplinary proceedings. The above clarification is given by this Court since this Court is intending to permit the third respondent to conduct an inquiry within the limited scope that has been explained supra. Hence, the third respondent shall keep in mind the above observations made by this Court and proceed further with the inquiry.

30. In the light of the above discussions, this Court is not inclined to interfere with the impugned memorandum dated 22.8.2024 containing the article of charge. It is left open to the third respondent to proceed further with the inquiry in the light of the observations made by this Court in this order.

31. In the result, the writ petition is disposed of in the above terms. No costs. Consequently, the connected WMP is closed.

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N.ANAND VENKATESH,J

RS

To

- 1.The Director General, Central Industrial Security Force,
CGO Complex, Lodhi Road,
New Delhi.
- 2.The Deputy Inspector General,
Central Industrial Security Force,
RTC Arakonam, Suraksha Campus,
Ranipet District-63152.
- 3.The Commandant, Central Industrial Security Force,
RTC Arakonam, Suraksha Campus,
Ranipet District-63152.
- 4.The Tahsildar, Omalur Taluk.

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