



W.P. (MD) No.2786 of 2011

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 04.01.2024

PRONOUNCED ON : 24.01.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P(MD).No.2786 of 2011

B.Stalin

...Petitioner

Vs

1.The Chief Secretary
Government of Tamil Nadu
Chief Secretariat
Tamil Nadu State Assembly Complex
Chennai -2

2.The Secretary
Backward Classes and Most Backward Classes
Welfare Department
Government of Tamil Nadu
Chief Secretariat
Tamil Nadu State Assembly Complex
Chennai – 2

3.The Chairman
Tamil Nadu Backward & Most Backward Classes
Commission
Chennai – 5



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4.Piramalaikallar Samooga Sevaiyil
Presidency Service Club
Through its General Secretary
Dr.Pon.Vijayan Ph.D., 2nd Floor
Sakkarai Vaniga Valagam
B.B.Chavadi, Madurai -10

5.T.Boopathi Raja
S/o.V.Thangaraj
The Secretary
Piramalai Kallar Youth Federation
N.S.Complex, Nandavanam
Peraiyur Road, Usilampatti,
Madurai District

6.Kamuthi Taluka Maravar Ina Arakkatalai
Munnetra Sangam
Represented by its President
M.Ramaiah Thevar, S/o.Miniyandi Thevar
10/9, Maravar Sangam, Sundaram Chettiar Street
Kamuthi 623 603
Ramnad

....Respondents

(R4 & R5 impleaded as party respondents vide Court order dated 07.06.2012 and 12.06.2012 and R6 impleaded vide Court order dated 21.08.2013)

Prayer : Writ Petition has been filed under Article 226 of Constitution of India to issue a writ of Mandamus, directing the respondents to enforce G.O.Ms.No. 38 dated 11.09.1995 in letter and spirit and bringing the entire Thevar Community under the most backward community category by considering the representation dated 21.02.2011.



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For Petitioner : Mr.S.M.Ananthamurugan

For R1 to R3 : Mr.S.P.Maharajan
Special Government Pleader

For R4 :Mr.S.Rajasekar

For R5 & R6 : Mr.S.Sankarapandian

ORDER

(Made by **R.VIJAYAKUMAR,J.**)

The present writ petition has been filed as a public interest litigation seeking a mandamus directing the respondents to enforce G.O.Ms.No.38 Backward Classes and Most Backward Classes Welfare Department, dated 11.09.1995 and bring the entire Thevar Community under Most Backward Community Category by considering the representation of the petitioner dated 21.02.2011.

2.According to the writ petitioner, the Government of Tamil Nadu had issued G.O.Ms.No.38 Backward Classes and Most Backward Classes Welfare Department, dated 11.09.1995 unifying three sub-castes of Mukkulathor Community namely Kallar, Maravar and Agamudayar and renamed them as Thevar Community. According to the writ petitioner, the unifying of three



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sub-castes is not only for the purposes of renaming the community as Thevar Community, but also for the conferment of benefits upon the said community based upon the recommendations to be made by Tamil Nadu Backward Classes Commission constituted by the Government. Though the said Government Order has been issued in the year 1995, till date no action has been taken to bring the entire Thevar Community under Most Backward Category.

3.In the Union Territory of Puducherry even without a Government Order, the entire community has been classified under a single category in Serial No.25. Out of the three sub-castes, Agamudayar Community and part of Kallar Community continued to be Backward Class. Maravar and another part of Kallar Community have been declared to be as Most Backward Community.

4.Though as per G.O.Ms.No.38, Backward Classes and Most Backward Classes Welfare Department, dated 11.09.1995, all the three sub-castes has been unified and brought under a single name, as far as community status is concerned, the classification of Backward Class and Most Backward Class continue. Therefore, it is against the letter and spirit of the Government Order dated 11.09.1995. Hence, the present writ petition.



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5.The respondents 1 and 2 have filed a counter contending that the declaration of any community or group of community as Most Backward Class is a decision to arrive at by the Government based upon the recommendations made by the State Backward Classes Commission. The respondents had further contended that G.O.Ms.No.38, Backward Classes and Most Backward Classes Welfare Department, dated 11.09.1995 is for the limited purpose of unifying the three sub-castes namely Kallar, Maravar and Agamudayar and renaming them as Thevar Community. Therefore, the said Government Order cannot be relied upon for classification or re-classification of any one of the Communities as Most Backward Community. That apart, other than these three sub-castes, there are many other sub-castes within the Mukkulathor Community which have not been unified or brought under the name and style of Thevar Community.

6.Even as per the above said Government Order, the re-classification of these Communities will be decided on the basis of recommendation to be made by the Tamil Nadu Backward Classes Commission. The Government by its letter dated 26.09.1995 had addressed this issue to the Tamil Nadu Backward Classes Commission eliciting their views relating to the request of these three sub-castes for placing them under Most Backward Community. The



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Commission has decided to defer this issue till castewise survey is conducted in the State. Therefore, the final recommendation on the prayer made in the writ petition could be taken by the State only after receipt of the report from the Backward Class Commission.

7.It is further contended that the subsets of each one of the three major sub-sects have got different socio and economic background in different districts. Only considering the said reality in one district, a particular sub-sect is declared to be a backward community. On the other hand, it declared to be a Most Backward Class in another district. Based on the said contention, the respondents 1 and 2 sought to dismiss the writ petition.

8.The learned counsel appearing for the fifth respondent had filed a counter opposing prayer in the writ petition contending that providing reservation is the policy decision of the Government based on socio, economic and educational condition of the said community. A single person by sending a representation cannot claim benefit as a matter of right.

9.We have carefully considered the submissions made on either side and perused the material records.



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10.The sheet-anchor of the case of the writ petitioner is that the Government had issued G.O.Ms.No.38 Backward Classes and Most Backward Classes Welfare Department, dated 11.09.1995 wherein three sub-castes namely Kallar, Maravar and Agamudaiyar of Mukkulathor Community were unified and renamed as Thevar Community. Therefore, the entire Thevar Community should be brought within the category of Most Backward Class for the purposes of reservation.

11.A perusal of the said Government Order would clearly reveal that the said order has been issued only for the limited purpose of unifying three sub-sects and re-naming them as Thevar Community. The said G.O further points out that the re-classification of these communities would be decided based on the recommendation to be made by the Tamil Nadu Backward Classes Commission. Therefore, it is clear that the above said G.O., is no way helpful to the case of the writ petitioner seeking to place the entire community under Most Backward Class Category.

12.The Government had referred the said request of the community for conferment of Most Backward Class Category to Tamil Nadu Backward Classes Commission by letter dated 26.09.1995. The Tamil Nadu Backward Classes



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Commission in a meeting held on 08.09.2009, had deferred the request for inclusion of all the three communities under Most Backward Classes until castewise socio, educational and economic statistics of the entire population received by the Commission. The Commission in its letter dated 02.05.2007 addressed to the Government has stated as follows:

“... socio, economic and educational survey of Tamil Nadu is felt- necessity of the time, in rather a bid, to confer social justice to all deserving segments of the society in the matter of admissions to educational institutions in the State as well as appointment or posts in the services under the State, placed in similar or uniform circumstances, without under the State, placed in similar or uniform circumstances, without any sort of a discrimination whatever.

After the survey is over, the particulars collected may be placed before the commission so as to enable it to classify the various castes and communities of the entire populace of the State into difference categories.

The results of filed survey have to be carefully securitized in the best of fashion possible by resorting to the adoption of random check measures and other techniques and devices emerging from expert quarters so as to see that the survey taken reflects authenticity and veracity...”



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13.The classification of a particular community as a Backward Class or Most Backward Class has to be declared by the Government only based upon the recommendation of the Tamil Nadu Backward Classes and Most Backward Classes Commission. In the present case, the Commission has taken a view that unless a castewise survey is conducted through out the State of Tamil Nadu to identify the socio, educational and economic survey statistics, they would not be in a position to declare any particular community as a Backward Classes or Most Backward Class Community. The Commission has also informed the said decision to the Government. Therefore, a mandamus cannot be issued to the Government at this point of time to declare a particular community as Most Backward Class Community.

14.The Commission being an independent body constituted as per direction of the Hon'ble Supreme Court, the Government has to wait for decision of the Commission. One of the member of the Community by merely sending a representation to the Government, cannot compel the Government to deviate from the procedure contemplated for declaring a particular community as Most Backward Class Community.



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15. In view of the above said deliberations, there are no merits in the writ petition. The Writ Petition stands dismissed. No costs.

(D.K.K.J.,)

(R.V.J.,)

24.01.2024

Index :yes
Internet :yes
NCC : Yes/No
msa



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 - 2.The Secretary
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**D.KRISHNAKUMAR, J.
AND
R.VIJAYAKUMAR, J.**

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Pre-delivery Order made in
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