

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2015

Coram:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No. 920 of 2014

P.Indira

.. Petitioner

Vs

National Commission for Scheduled Castes
Rep.by its Director,
Floor No.2, Block No.5,
Shastri Bhavan,
Chennai 600 006.

..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondent to initiate appropriate investigation on the complaint of the petitioner dated 24.05.2012 in accordance with Article 338 of the Constitution of India and pass appropriate orders on its merits and in accordance with law within the time frame stipulated by this Court.

For Petitioner : Mr.R.Kamatchi Sundaresan

For Respondent : Mr.N.Ramesh

O R D E R

Heard Mr.R.Kamatchi Sundaresan, learned counsel for the petitioner and Mr.N.Ramesh, learned Government for the respondent.

2. The petitioner seeks for issuance of Writ of Mandamus directing the respondent to initiate appropriate investigation on the complaint of the petitioner dated 24.05.2012 in accordance with the Article 338 of the Constitution of India.

3. The legal issue involved in the writ petition is covered by the decision of the Hon'ble Supreme Court of India in the case of Collector, Bilaspur vs. Ajit P.K.Jogi & Others in C.A.No.4069 of 2008 which reads as follows:

It is only after recording the said findings,
the Commission directed the State Government to
verify the genuineness of the ST certificate

obtained by first respondent and initiate action for cancellation of the certificate and also initiate criminal action. All these were unwarranted. As noticed above, the power under clause 5(b) of Article 338 (or under any of the other sub clauses of clause 5 of Article 338) did not entitle the Commission to hold an inquiry in regard to the caste status of any particular individual, summon documents and record a finding that his caste certificate is bogus or false. If such a complaint was received about the deprivation of the rights and safeguards, it will have to refer the matter to the State Government or the authority concerned with verification of caste/tribal status, to take necessary action. It can certainly follow up the matter with the State Government or such authority dealing with the matter to ensure that the complaint is inquired into and appropriate decision is taken. If the State Government or the authorities did not take action, the Commission could either itself or through the affected persons, initiate legal action to ensure that there is a proper verification of the caste certificate, but it cannot undertake the exercise itself, as has been done in this case. The contention that there was sufficient material to reach such a conclusion is not relevant. The scope of the duties of the Commission as noticed above, did not involve inquiry or adjudication in regard to the rights of parties or caste status of the parties. The same is the position even under Article 338 A (which was subsequently inserted) providing for a separate Commission for Scheduled Tribes with identical duties. The order of the Commission cannot therefore be sustained. The High Court was justified in setting aside the said order dated 16.10.2001.

4. In the light of the above, the relief sought for by the petitioner cannot be granted, following the decision of the Hon'ble Supreme Court referred above, this petition is dismissed. No costs.

5. It is open to the petitioner to raise all contentions before the appropriate forum.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

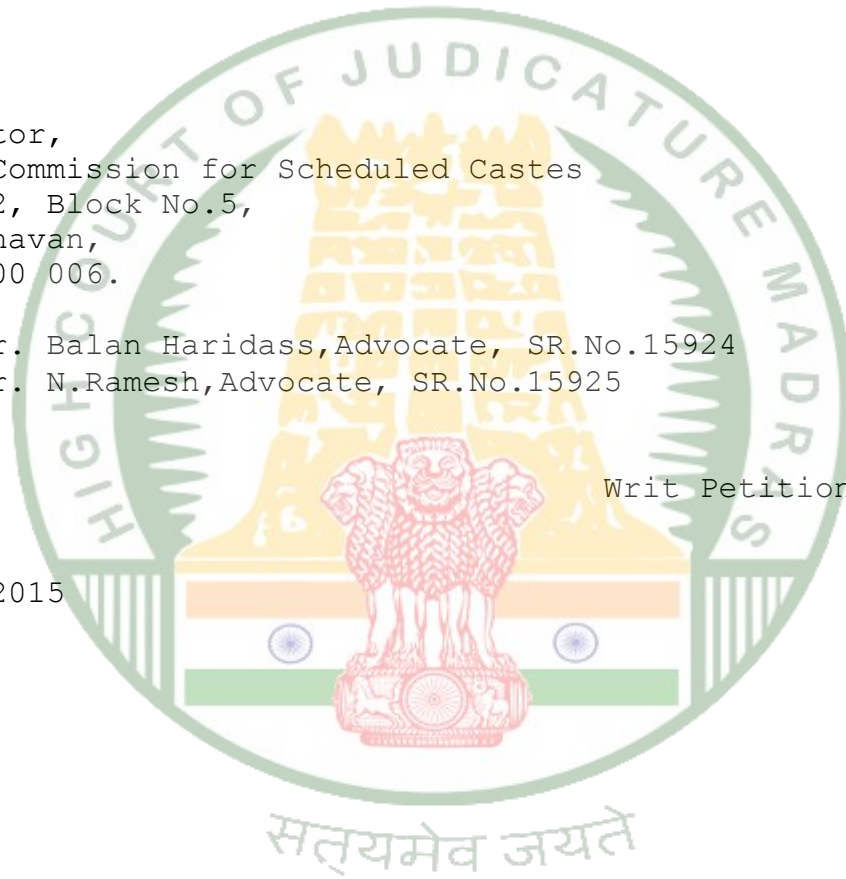
kkd
To

The Director,
National Commission for Scheduled Castes
Floor No.2, Block No.5,
Shastri Bhavan,
Chennai 600 006.

1 cc to Mr. Balan Haridass, Advocate, SR.No.15924
1 cc to Mr. N.Ramesh, Advocate, SR.No.15925

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