

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE K.K.SASIDHARAN

W.P. No.19076 of 2015
and
M.P.Nos.1 and 2 of 2015

R.Renganathan .. Petitioner

Vs.

- 1.Tamil Nadu State Level Scrutiny committee,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavignar Maligai,
Secretariat,
Chennai-9.
Rep by its Chairman.
 - 2.The District Collector,
Thanjavur.
 - 3.The Principal Accountant General (Civil Audit),
Lekha Pariksha Bhavan,
No.361, Anna Salai,
Teynampet,
Chennai-18.
- .. Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records relating to the proceedings of the Tamil Nadu State Level Scrutiny Committee in proceedings No.10232/CV-2/2012-11 dated 22.6.2015 on the file of the first respondent and quash the same.

For petitioner : Mr.S.Doraisamy

For respondents : Mr.N.Sakthivel, Government Advocate
for RR1 and 2
Mr.T.Ravikumar,
Standing Counsel for R-3

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

Assailing the legality and validity of the proceedings bearing No.10232/CV-2/2012-11 dated 22nd June, 2015 of the first respondent, the petitioner has filed the instant petition.

2 The learned counsel appearing for the petitioner submits that while rejecting the case of the petitioner for grant of community certificate, the first respondent had not adhered to the guidelines issued by the Supreme Court of India in Kumari Madhuri Patil Vs. Additional Commissioner, Tribal Development & Others ¹ and also the Government Order in G.O.Ms.No.106, Adi Dravidar and Tribal Welfare Department dated 15th October, 2012. It is further urged that the petitioner is entitled to a copy of the report of the Vigilance Cell with an opportunity to present his case in response to the said report. In the case on hand, the petitioner was never furnished any report of the Vigilance Officer when the first respondent, relying on the said report, had rejected the case of the petitioner. It is also contended that the State Level Scrutiny Committee has not considered any report of the Anthropologist in respect of the anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies, as mandated by the Supreme Court. Thus, the impugned order deserves to be set aside with a direction to consider afresh and pass an order upholding the certificate granted to the petitioner by the competent officer.

3 Thiru N.Sakthivel, learned Government Advocate, appearing for respondents 1 and 2, relying on the counter affidavit filed by the first respondent, would submit that the enquiry was held on 8th June, 2015, wherein the petitioner appeared and produced documents available with him. The Committee has examined all documents with the report of the Deputy Superintendent of Police, Vigilance Cell, Trichy Region. The report of the Vigilance Cell was found proper on examination of the documents submitted by the petitioner. It is also contended that the vigilance report was shown to the petitioner at the time of enquiry. Thus, the requirement of submission of the vigilance report is complied with. There is no infirmity and irregularity in the conduct of the enquiry and in coming to the conclusion that the community certificate dated 18th October, 1978 issued to the petitioner earlier, deserves to be cancelled as he was not found to be a member of the Scheduled Tribe Hindu Kondareddis community.

4 We have heard the learned counsel for the parties, perused the pleadings and documents appended thereto.

5 It is indisputable that the copy of the vigilance

1 (1994) 6 SCC 241

report was not submitted to the petitioner to enable him to file his explanation supported by relevant documents. Thus, the petitioner was prejudiced in putting forth his case before the State Level Scrutiny Committee.

6 The Supreme Court, while examining the issue of grant of social status certificate, in Kumari Madhuri Patil (supra) laid down the procedure for issuance of social status certificate, as under :

"13. x x x x x x x x x x x x For that purpose, it is necessary to streamline the procedure for the issuance of social status certificates, their scrutiny and their approval, which may be the following:

1. The application for grant of social status certificate shall be made to the Revenue Sub-Divisional Officer and Deputy Collector or Deputy Commissioner and the certificate shall be issued by such officer rather than at the Officer, Taluk or Mandal level.

2. The parent, guardian or the candidate, as the case may be, shall file an affidavit duly sworn and attested by a competent gazetted officer or non-gazetted officer with particulars of castes and sub-castes, tribe, tribal community, parts or groups of tribes or tribal communities, the place from which he originally hails from and other particulars as may be prescribed by the Directorate concerned.

3. Application for verification of the caste certificate by the Scrutiny Committee shall be filed at least six months in advance before seeking admission into educational institution or an appointment to a post.

4. All the State Governments shall constitute a Committee of three officers, namely, (I) an Additional or Joint Secretary or any officer high-er in rank of the Director of the department concerned, (II) the Director, Social Welfare/Tribal Welfare/Backward Class Welfare, as the case may be, and (III) in the case of Scheduled Castes another officer who has intimate knowledge in the verification and issuance of the social status certificates. In the case of the Scheduled Tribes, the Research Officer who has

intimate knowledge in identifying the tribes, tribal communities, parts of or groups of tribes or tribal communities.

5. Each Directorate should constitute a vigilance cell consisting of Senior Deputy Superintendent of Police in over-all charge and such number of Police Inspectors to investigate into the social status claims. The Inspector would go to the local place of residence and original place from which the candidate hails and usually resides or in case of migration to the town or city, the place from which he originally hailed from. The vigilance officer should personally verify and collect all the facts of the social status claimed by the candidate or the parent or guardian, as the case may be. He should also examine the school records, birth registration, if any. He should also examine the parent, guardian or the candidate in relation to their caste etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all particulars as envisaged in the pro forma, in particular, of the Scheduled Tribes relating to their peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. by the castes or tribes or tribal communities concerned etc.

6. The Director concerned, on receipt of the report from the vigilance officer if he found the claim for social status to be "not genuine" or 'doubtful' or spurious or falsely or wrongly claimed, the Director concerned should issue show-cause notice supplying a copy of the report of the vigilance officer to the candidate by a registered post with acknowledgement due or through the head of the educational institution concerned in which the candidate is studying or employed. The notice should indicate that the representation or reply, if any, would be made within two weeks from the date of the receipt of the notice and in no case on request not more than 30 days from the date of the receipt of the notice. In case, the candidate seeks for an opportunity of hearing and claims an inquiry to be made in that behalf, the Director on receipt of such representation/reply shall convene the

committee and the Joint/Additional Secretary as Chairperson who shall give reasonable opportunity to the candidate/parent/guardian to adduce all evidence in support of their claim. A public notice by beat of drum or any other convenient mode may be published in the village or locality and if any person or association opposes such a claim, an opportunity to adduce evidence may be given to him/it. After giving such opportunity either in person or through counsel, the Committee may make such inquiry as it deems expedient and consider the claims vis-à-vis the objections raised by the candidate or opponent and pass an appropriate order with brief reasons in support thereof.

7. In case the report is in favour of the candidate and found to be genuine and true, no further action need be taken except where the report or the particulars given are procured or found to be false or fraudulently obtained and in the latter event the same procedure as is envisaged in para 6 be followed.

8. Notice contemplated in para 6 should be issued to the parents/guardian also in case candidate is minor to appear before the Committee with all evidence in his or their support of the claim for the social status certificates.

9. The inquiry should be completed as expeditiously as possible preferably by day-to-day proceedings within such period not exceeding two months. If after inquiry, the Caste Scrutiny Committee finds the claim to be false or spurious, they should pass an order cancelling the certificate issued and confiscate the same. It should communicate within one month from the date of the conclusion of the proceedings the result of enquiry to the parent/guardian and the applicant.

10. In case of any delay in finalising the proceedings, and in the meanwhile the last date for admission into an educational institution or appointment to an officer post, is getting expired, the candidate be admitted by the Principal or such other authority competent in that behalf or appointed on the basis of the

social status certificate already issued or an affidavit duly sworn by the parent/guardian/candidate before the competent officer or non-official and such admission or appointment should be only provisional, subject to the result of the inquiry by the Scrutiny Committee.

11. The order passed by the Committee shall be final and conclusive only subject to the proceedings under Article 226 of the Constitution.

12. No suit or other proceedings before any other authority should lie.

13. The High Court would dispose of these cases as expeditiously as possible within a period of three months. In case, as per its procedure, the writ petition/miscellaneous petition/matter is disposed of by a Single Judge, then no further appeal would lie against that order to the Division Bench but subject to special leave under Article 136.

14. In case, the certificate obtained or social status claimed is found to be false, the parent/guardian/the candidate should be prosecuted for making false claim. If the prosecution ends in a conviction and sentence of the accused, it could be regarded as an offence involving moral turpitude, disqualification for elective posts or offices under the State or the Union or elections to any local body, legislature or Parliament.

15. As soon as the finding is recorded by the Scrutiny Committee holding that the certificate obtained was false, on its cancellation and confiscation simultaneously, it should be communicated to the educational institution concerned or the appointing authority by registered post with acknowledgement due with a request to cancel the admission or the appointment. The Principal etc. of the educational institution responsible for making the admission or the appointing authority, should cancel the admission/appointment without any further notice to the candidate and debar the

candidate from further study or continue in office in a post.

7 The said guidelines was referred to with approval in Director of Tribal Welfare, Government of A.P. Vs. Laveti Giri and Anr.², Baswant Vs. State of Maharashtra & Ors.³, Sudhakar Vithal Kumbhare Vs. State of Maharashtra and Ors.⁴, and G.M., Indian Bank Vs. R.Rani⁵.

8 In clause (6) of paragraph 13 in Kumari Madhuri Patil (supra), it has been clearly directed that in the vigilance report, if the claim of the applicant for social status is found not genuine or doubtful or spurious or falsely or wrongly claimed, the applicant is entitled to show cause notice along with a copy of the report of the vigilance officer, calling upon the person concerned to file his explanation. Then, the Director, Vigilance Cell is required to follow the procedure as contained in the said clause. In the case on hand, the said mandatory guideline was not adhered to by the authorities. Thus, the impugned order is vitiated for want of supply of vigilance report, which was against the petitioner.

9 We, accordingly, set aside the impugned order dated 22nd June, 2015 and remit back the matter to the first respondent to reconsider the issue afresh after affording proper opportunity of hearing on the vigilance report to the petitioner. The committee is further obligated to examine all aspects of the matter, particularly, anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies, etc., by the castes or tribes or tribal communities concerned in consultation with the experts in the field. Such exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

10 Resultantly, the writ petition is allowed. No costs. Consequently connected miscellaneous petition is closed.

सत्यमेव जयते

Sd/-

Asst.Registrar (CO)

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Sub Asst. Registrar

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2 (1995) 4 SCC 32

3 JT 2000 (10) SC 280

4 (2004) 9 SCC 481

5 (2007) 12 SCC 796

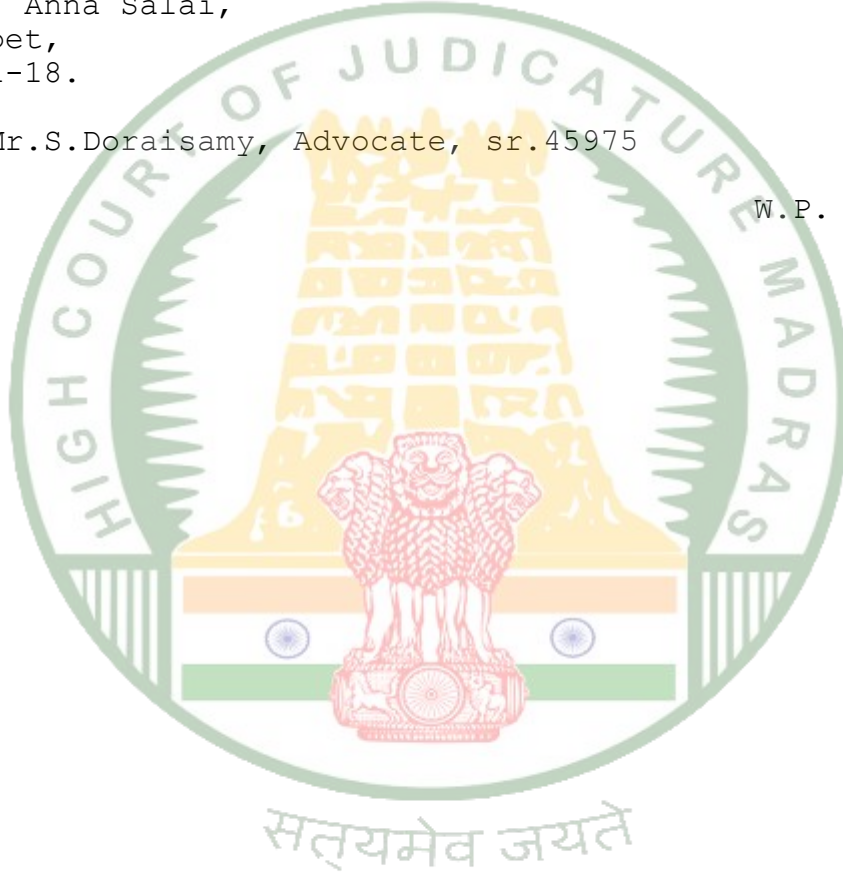
To

- 1.The Chairman,
Tamil Nadu State Level Scrutiny committee,
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+1 cc to Mr.S.Doraisamy, Advocate, sr.45975

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