

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2015

CORAM:

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

W.P. No.24816 of 2015 and M.P. No.1 of 2015

C. Lakshminarayanan

Petitioner

Vs.

1 The Chairman
State Level Scrutiny Committee and
Principal Secretary to Government
Adi Dravidar and Tribal Welfare Department
Chennai 600 009

2 The Deputy Technical Advisor (Southern Region)
Ministry of Women and Child Development,
Food and Nutrition Board
Southern Region
Shastri Bhavan
26 Haddows Road
Chennai 600 006

3 The District Collector
Kanchipuram District
Kanchipuram and District

Respondents

Writ Petition filed under Article 226 of the Constitution seeking a writ of certiorari, calling for the entire records of the first respondent's order made in Proceedings No.7952/CV-4/2014-10 dated 30.06.2015 and quash the same.

For petitioner Mr. K.A. Ravindran
For respondents Mrs. A. Srijayanthi, Spl. Govt. Pleader

ORDER

(delivered by SATISH K. AGNIHOTRI,J.,)

With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal.

2 The facts in brief, as projected by the petitioner, giving rise to this writ petition are that he belongs to Konda Reddy (ST)

community. On the strength of such community certificate dated 09 September 1980 issued by the Deputy Tahsildar, Saidapet, his appointment as Technical Assistant/Demonstrator-Class III in the second respondent-department vide order dated 28 August 1980, was also confirmed. On his reaching the age of superannuation, he was relieved on 04 August 2014. While so, on the basis of the complaint made by his daughter to the second respondent to the effect that he does not belong to Konda Reddy community, a copy of which was not even furnished to him, the first respondent, viz., State Level Scrutiny Committee, directed him to appear for enquiry to verify the genuineness of his community certificate. Subsequently, the matter was referred by the State Level Scrutiny Committee to the Vigilance Cell vide order dated 31 July 2014. The Vigilance Cell eventually came to the conclusion that his community certificate is not genuine. Thus, the State Level Scrutiny Committee, relying on the information provided by the District Collector, Kancheepuram, that no Konda Reddy community certificate was issued to the petitioner, which was based on the report of the Revenue Divisional Officer, Tambaram and also placing reliance on the report of the Vigilance Cell to the effect that the petitioner's community certificate is not genuine, cancelled the community certificate issued to the petitioner vide the impugned proceedings dated 30 June 2015. Feeling aggrieved, the petitioner is before this Court.

3 The prime contention of the petitioner is that the enquiry was done in a discreet manner and he was not supplied with a copy of the enquiry report and thus, he was deprived of the opportunity of putting forth his defence.

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

5 The issue involved in this case lies in a narrow compass, viz., whether the impugned proceedings of the first respondent-State Level Scrutiny Committee, is sustainable in the eye of law, when the enquiry has not been done in a fair and transparent manner and also when the enquiry report has not been furnished to the petitioner to defend his case.

6 At this juncture, it is felicitous to refer to the decision of this Division Bench in V. Palani vs. The Revenue Divisional Officer, Tiruttani, Tiruvallur District¹, wherein, it was held that in the event, the enquiry turns adverse, then, the aggrieved person is entitled to a show cause notice together with a copy of the enquiry report. The relevant passage from the said judgment reads as under:

"8. There is one more infirmity in this matter. The Supreme Court in Kumari Madhuri Patil vs. Additional Commissioner, Tribal Development and Others (1994) 6 SCC 241, has evidently observed that the enquiry has to be

1 2015-4-LW 642

conducted in a transparent and open manner. In the event, the enquiry is adverse, the petitioner is entitled to show cause notice with a copy of the enquiry report. The petitioner is entitled to an opportunity to adduce evidence and raise objections, if any in the enquiry conducted by the competent officer."

7 In this context, it is also worthwhile to refer to the Circular issued by the State Government for the convenience of the officers dealing with issuance, verification and cancellation of community certificates. Paragraph no.X (1) of the said Circular reads as under:

X VERIFICATION AND CANCELLATION OF THE CERTIFICATE ISSUED:

1 Verification of the community certificate ordered in the cases should be an open enquiry and it cannot be a discreet and confidential enquiry. While verifying the certificate already issued in favour of any person, the officer enquiring shall conduct an open enquiry, cause verification of records and send a report to the Collector. On the basis of the report, the person concerned should be given an opportunity to justify the genuineness of the community claimed by him. Orders should be passed only afterwards."

8 The aforesaid direction is in consonance with the parameters laid down by the Supreme Court in Kumari Madhuri Patil and another vs. Additional Commissioner, Tribal Development and Others², Director of Tribal Welfare, Government of A.P. Vs. Laveti Giri and Another.³, Baswant Vs. State of Maharashtra & Others.⁴, Sudhakar Vithal Kumbhare Vs. State of Maharashtra and Others.⁵, and G.M., Indian Bank Vs. R.Rani⁶.

9 In the case on hand, countering the stand of the petitioner, there is not even a whisper in the counter affidavit that the enquiry was conducted in a fair and transparent manner and the petitioner was provided with a copy of the enquiry report.

10 Keeping in view the above factual matrix and also the ratio laid down in the judgments referred to above, we have no hesitation in holding that the impugned proceedings does not have legs to stand

2 (1994) 6 SCC 241

3 (1995) 4 SCC 32

4 JT 2000 (10) SC 280

5 (2004) 9 SCC 481

6 (2007) 12 SCC 796

and the impugned proceedings is accordingly set aside. The matter is remitted back to the first respondent to consider the entire case afresh, as directed by the Supreme Court in the aforestated judgments and also by this Division Bench in V. Palani (supra) within a period of six weeks from the date of receipt of a copy of this order.

11 Resultantly, the writ petition is allowed. Costs made easy. Connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1 The Chairman
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+1 cc to M/S.K.A.Ravindran Advocate sr.53216

+1 cc to Government pleader sr.53726

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