

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2015

CORAM:

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

W.P.No.25288 of 2015
and M.P.Nos.1 and 2 of 2015

R.Nandagopal

...Petitioner

vs.

1.The Chairman,
State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai - 600 009.

2.The Joint Director,
CBI/EO/Zone-II, Mumbai
4th Floor, Universal Insurance Building,
Sir P.M.Road, Fort,
Mumbai - 400 001.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari, calling for the records relating to the Proceedings No.13061/CV-4/2012-16, dated 13.03.2015 issued by the first respondent and to quash the same.

For Petitioner : Ms.Y.Kavitha for
M/s.Giridhar and Sai Associates

For Respondents: Mr.N.Sakthivel
Government Advocate for R1
Mr.S.M.Deenadayalan for R2

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O R D E R
(delivered by K.K. SASIDHARAN, J.)

The challenge in this writ petition is to the order dated 13.03.2015 on the file of the Tamil Nadu State Level Scrutiny Committee cancelling the "Kattunayakkan" Scheduled Tribes Community Certificate issued to the petitioner.

2. Heard the learned counsel for the petitioner, the learned Additional Government Pleader on behalf of the State and the learned counsel for Central Bureau of Investigation.

3. The petitioner claiming himself to be a member of Schedule Tribe Community submitted an application for appointment to the post of Constable in Central Bureau of Investigation. He was appointed on 14.08.1996 against the post reserved for the members of Schedule Tribes Community. The petitioner was later promoted to the post of Sub-Inspector of Police.

4. The petitioner was directed by his employer to produce a fresh Community Certificate indicating his community status. The petitioner failed to submit the certificate under the pretext his application for a fresh certificate is pending before the revenue authority.

5. While so, the Central Bureau of Investigation registered a criminal case against the petitioner on the ground of production of forged Community Certificate. The certificate produced by the petitioner was forwarded to the State Level Scrutiny Committee for deciding its genuineness.

6. The State Level Scrutiny Committee summoned the petitioner on multiple occasions to produce documents and substantiate his contention that he belongs to "Kattunayakkan" community.

7. It is the case of the petitioner that he was not given reasonable opportunity by the State Level Scrutiny Committee before passing adverse orders.

8. Since the petitioner has come up with a grievance that notices issued to him by the State Level Scrutiny Committee were not served on him and ex parte enquiry was conducted, we have summoned the entire records.

9. The records produced by the State Level Scrutiny Committee clearly proved that notices were issued to the petitioner on several occasions directing him to produce supportive documents. The petitioner was directed to appear on 14.05.2012 and 28.05.2012. However, he failed to appear before the Committee.

10. The order passed by the State Level Scrutiny Committee on 30.05.2012 was put in issue by the petitioner in W.P.No.21002 of 2012. This Court set aside the said order and remitted back the matter to the State Level Scrutiny Committee by order dated 03.08.2013. Thereafter, the State Level Scrutiny Committee

directed the petitioner to appear for enquiry on 26.12.2013 along with documents. The petitioner was conspicuously absent on the date of hearing.

11. The petitioner vide representation, dated 26.12.2013, wanted his employer to produce his original Community Certificate. However, the Central Bureau of Investigation maintained that they were not in possession of the original Community Certificate relating to the petitioner. Thereafter, the petitioner was directed by the Committee to appear on 15.07.2014 for enquiry. Though notice was received on the petitioner, sufficiently earlier, the fact remains that he failed to appear before the State Level Scrutiny Committee. Thereafter, one more opportunity was given to him to attend the enquiry on 26.09.2014. The petitioner failed to avail the said opportunity also. The State Level Scrutiny Committee wanted to give reasonable opportunity to the petitioner, inspite of his absence earlier. Therefore, by way of another notice, he was directed to appear on 23.01.2015. Since he failed to appear, one more opportunity was given by fixing the enquiry on 20.02.2015. The file produced by the State Level Scrutiny Committee contained materials to show that notices were served on the petitioner fixing the enquiry on 23.01.2015 and 20.02.2015. Since there was no attempt on the part of the petitioner to produce the documents to substantiate his case that he belongs to "Kattunayakkan" Schedule Tribes Community, the State Level Scrutiny Committee was constrained to look into the available documents for the purpose of arriving at a decision.

12. The petitioner has now come up with a case of prejudice. The petitioner wanted to keep the proceedings live for reasons best known to him. Nothing prevented the petitioner from appearing before the Committee and produce documents to prove his case. The State Level Scrutiny Committee granted reasonable time to the petitioner for production of records.

13. The judicial review in a matter of this nature is very limited. It is not within the province of the Court to consider the materials for the purpose of arriving at a different decision. The Court is essentially considered with the decision making process. It is not as if the petitioner was denied opportunity to substantiate his contentions. The Committee granted him sufficient opportunity to appear and submit his case. The petitioner deliberately absented himself. We are, therefore, of the view that the State Level Scrutiny Committee was perfectly correct in passing the order impugned in this writ petition.

In the upshot, we dismiss the writ petition. No costs.
Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Chairman,
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Adi Dravidar and Tribal Welfare Department,
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2.The Joint Director,
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+1 cc to M/S.Giridhar & Sai Associates sr.59190
+1 cc to Mr.S.M.Deenadayalan Advocate sr.58918

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aa27/11/2015

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