

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2016

Coram

The Honourable Mr.Justice HULUVADI G.RAMESH
and

The Honourable Mr.Justice V.PARTHIBAN

W.P. No. 29701 of 2014

S.Appavu

.. Petitioner

Vs.

1. The State Level Scrutiny Committee
for Scheduled Tribes,
Adi Dravidar and Tribal Welfare Department,
Fort St.George,
Secretariat,
Chennai-600 009.
2. The Revenue Divisional Officer,
Thiruvannamalai,
Thiruvannamalai District.
3. Mr.K.Ayyanar ...Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the first respondent in proceedings No.14207/CV-II/2012-14, dated 18.9.2014, quash the same and consequently, direct the first respondent to declare that the 3rd respondent belongs to Hindu Joggiar community.

For petitioner : Mr. M.Dhandapani

For Respondents : Mr.P.Karthikeyan, GA for R1 & R2
Mr.Yogesh Kannadasan for R3

ORDER

(Order of the Court was delivered by
HULUVADI G.RAMESH, J.)

This Writ Petition has been filed by the petitioner, praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the first respondent in proceedings No.14207/CV-

II/2012-14, dated 18.9.2014, quash the same and consequently, direct the first respondent to declare that the 3rd respondent belongs to Hindu Joggiar community.

2. According to the petitioner, the third respondent, K.Ayyanar originally belongs to Joggiar community, which is a most backward class, but he contested the election for the post of President, Palayanur village on basis of community certificate that he belongs to Irular community which is classified as a scheduled tribe and the said post of panchayat President was reserved exclusively for scheduled tribe.

3. In this regard, it appears that the petitioner made a complaint before the District Collector, Tiruvannamalai, who forwarded the same to the Revenue Divisional Officer for verification of genuineness of the certificate of the third respondent. After conducting a detailed enquiry while affording an opportunity to both the petitioner and the third respondent and on verification of the relevant records and on consideration of the reports of RDO and Anthropologist, by proceedings, dated 18.9.2014, the first respondent Committee confirmed that the Community Certificate issued to the third respondent, is a genuine one and he belongs to Irular community, which is a scheduled tribe.

4. Aggrieved by the same, the petitioner has come forward with the present writ petition, contending that the first respondent Committee has not considered the report of the second respondent and completely ignored the findings therein. The first respondent Committee ought to have considered the material documents which would establish that the parents of the petitioner belong to Joggiar community and therefore, obtaining the opinion of Anthropologist does not arise.

5. Learned Government Advocate appearing for the would submit that the first respondent Committee, after examining the report of the Revenue Divisional Officer, sport enquiry report of the Anthropologist, who is a Member of the Committee and on verification of the documentary evidence, has come to the conclusion that the third respondent belongs to Scheduled Tribe, Hindu, Irular Community and as such, the Community Certificate produced by him, is a genuine one. Therefore, the learned Government Advocate would submit that there is no irregularity in such conclusion arrived at by the first respondent Committee in order to interfere with the impugned proceedings and hence, he sought for dismissal of the writ petition.

6. Learned counsel appearing for the third respondent would contend that the petitioner is none other than the close friend

of one Mr.Dhanapal who contested and lost to this respondent, to the post of President of the Village Panchayat during 2011 and at his instance, the petitioner raised objections regarding community of the third respondent, by making a complaint to the authorities, who in turn, having conducted a detailed enquiry by affording opportunity to the petitioner and the third respondent and on consideration of entire documents including enquiry of RDO and sport enquiry report Anthropologist, have categorically held that the third respondent belongs to Scheduled Tribe and his Community Certificate is genuine. He would further contend that the petitioner cannot maintain the writ petition since he has no locus standi. In support of his contention, he relied upon a decision reported in (2013) 4 SCC 465 (Ayaabbkhan Noorkhan Pathan versus State of Maharashtra and others), wherein, it has been held by the Supreme Court as under" in para 23:

"23. Thus, from the above it is evident that under ordinary circumstances, a third person, having no concern with the case at hand, cannot claim to have any locus-standi to raise any grievance whatsoever. However, in the exceptional circumstances as referred to above, if the actual persons aggrieved, because of ignorance, illiteracy, inarticulation or poverty, are unable to approach the court, and a person, who has no personal agenda, or object, in relation to which, he can grind his own axe, approaches the court, then the court may examine the issue and in exceptional circumstances, even if his bonafides are doubted, but the issue raised by him, in the opinion of the court, requires consideration, the court may proceed suo-motu, in such respect."

7. Having heard the learned counsel on either side and on going through the entire facts and circumstances, we do not find any irregularity or infirmity in the order of the first respondent Committee dated 18.09.2014 holding that the third respondent belongs to Scheduled Tribe community and as such his Community Certificate is a genuine one. In fact, on the complaint given by the petitioner, the first respondent has conducted a detailed enquiry by affording opportunity to the petitioner and the third respondent and on a careful consideration of report of the RDO and sport enquiry report of the Anthropologist and on verification of relevant documentary evidence, has come to such conclusion. Therefore, mere based on the contentions raised by the petitioner in this writ petition, we are not inclined to probe the matter in order to interfere with the same. Further, the petitioner has no locus standi to maintain the writ petition since we find that by virtue of

confirming the community status of the third respondent by the State Level Committee, he cannot be construed as an aggrieved person as his right or interest has been adversely affected. It is settled that only a person who has suffered, or suffers from legal injury can challenge the act/action/order in a Court of law. Therefore, we are of the view that the writ petition is not maintainable and it is liable to be dismissed.

Accordingly, the Writ Petition fails and it is dismissed as not maintainable. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Suk

To,

1. The State Level Scrutiny Committee for Scheduled Tribes.
Adi Drevidar and Tribal Welfare Department,
Fort St. George Secretariat,
Chennai-9.
2. The Revenue Divisional Officer,
Thiruvannamalai,
Thiruvannamalai District.

+1cc to Mr. Yogesh Kannadasan, Advocate, S.R.No.63161

+1cc to Mr.M. Dhandapani, Advocate, S.R.No.63158

rsy(CO)
rs(09/01/2017)

सत्यमेव जयते

W.P. No.29701 of 2014

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