

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

Writ Petition No.35662 of 2015
and M.P.No.1 of 2015

S.Mathivanan

..Petitioner

Vs

1.The Chairman
Chennai Port Trust
Chennai

2.The Secretary
Chennai Port Trust
Chennai

3.State Level Scrutiny Committee
Rep. By its Chairman and Secretary to Government
Adi Dravidar and Tribal Welfare (CV2) Department
Secretariat
Chennai-600 009

..Respondents

(R3 impleaded as per the order of this court
dated 04.11.2016)

Prayer : Writ Petition filed praying to issue a Writ of
Certiorari to call for the records of the 2nd respondent in
his proceedings No.SCT2/18774/2005/GA dated 21.10.2015 and
quash the same.

For petitioner ::Mr.V.Vijay Shankar

For Respondents ::Mr.M.Palanimuthu for R1 and R2
Mr.P.S.SivashanmugaSundaram,
Spl.G.P., for R3

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

Heard Mr.V.Vijay Shankar, learned counsel for the petitioner, Mr.M.Palanimuthu, learned counsel for respondents 1 and 2 and Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader appearing for the 3rd respondent.

2. The petitioner claims that he belongs to the Hindu Kattu Naickan Community, which is a Scheduled Tribe community and was issued with a community certificate by the Thasildar, Ulundurpet Taluk on 07.04.1982. It is further stated that at the time of appointment as Special Mechanic in the Chennai Port Trust on 14.08.1982, the petitioner obtained another community certificate in the format prescribed by the Chennai Port Trust and submitted the same. The respondent-Chennai Port Trust issued the impugned notice dated 21.10.2015, proposing to take disciplinary action against the petitioner and further directing to produce a fresh certificate from the competent authority. The petitioner is also shown to have submitted explanation to the said notice.

3. The learned counsel for the petitioner submits that as on today, the State Level Scrutiny Committee is the competent authority to make verification regarding the claim of the Scheduled Tribe community. He further submits that so long as the petitioner's community certificate remains valid and subsisting, it is not open to the respondent-Port Trust to entertain any doubt regarding genuineness or authenticity of the said certificate.

4. It is imperative to protect the interest of the persons belonging to the Schedule Caste and Scheduled Tribe Community in order to carry out the mandate of the constitution. Article 15 (4) states that nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes. The Constitution of India guarantees the rights of the citizens, who belong to the weaker sections of the society and also thrive to protect and establish their opportunity in the matters of education and appointment as per the percentage of quota fixed in the reservation for the purpose of promoting their interest and for the substantial equality.

5. Mr.M.Palanimuthu, learned counsel appearing for the Chennai Port Trust has drawn the attention of this court to the unscrupulous methods adopted by the candidates and obtaining community certificates for the sake of getting appointment in the Government and Public Sector.

6. Be that as it may. The respondents 1 and 2 having selected the petitioner for the post of Special Mechanic on finding that the certificate produced by him is a genuine certificate, thereafter, based on some anonymous report, passed the impugned notice asking the petitioner to produce a fresh certificate, which, in our considered view, is an undesirable act.

7. The apprehension of the petitioner is that he would be removed from service of the Chennai Port Trust, on his failure to produce fresh certificate.

8. In the counter affidavit, filed by respondents 1 and 2, it is stated that the documentary evidence produced by the petitioner, which is a copy of the SSLC, first page clearly mentions that he belongs to Backward Class, hence, it is very clear that he does not belong to ST Community and no original records have been produced so far to prove his genuineness.

9. The learned counsel for the respondent-Port Trust, sought to contend that a direction may be issued to the State Level Scrutiny committee to verify the genuineness of the community certificate and to carry out the vigilance enquiry with respect to the community certificate of the petitioner.

10. We have heard the submissions made on both sides and perused the records carefully. To meet the interests of justice, we hereby direct the 3rd respondent (newly impleaded respondent)-State Level Scrutiny Committee, to act upon the application/representation given by the petitioner vis-a-vis the respondents 1 and 2-Port Trust, in this regard, after proper verification of the documents produced by the petitioner and after affording sufficient opportunity to the petitioner to put forth his case and substantiate the same with suitable records. All the contentions are left open to the parties to submit before the State Level Scrutiny Committee. The above said exercise shall be carried out and necessary orders shall be passed, within a period of 3 months from the date of receipt of a copy of this order. Both the petitioner and

the respondent-Port Trust, shall cooperate with the State Level Scrutiny Committee, to arrive at a conclusion in this matter.

The Writ Petition is disposed of with the above direction. No costs. Consequently, connected MP is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nvsri
To

1.The Chairman
Chennai Port Trust
Chennai

2.The Secretary
Chennai Port Trust
Chennai

3.State Level Scrutiny Committee
Rep. By its Chairman and Secretary to Government
Adi Dravidar and Tribal Welfare (CV2) Department
Secretariat
Chennai-600 009

+1cc to Mr.V.Vijayshankar, Advocate, S.R.No.63337
+1cc to Mr.M.Palanimuthu, Advocate, S.R.No.62787
+1cc to the Government Pleader, S.R.No.63305

SVI (CO)
BB(29/12/2016)

W.P.No.35662 of 2015

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