

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.7.2016

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.41047 of 2015

K.Shobha Karthik

... Petitioner

Vs.

1. The District Level Scrutiny Committee
Ariyalur Collectorate
Ariyalur 621 704.
2. The Territory Manager (LPG)
Bharat Petroleum Corporation Ltd.
M.G.M. TB Sanatorium
Sengipatti Post Office
Tanjore District.
3. D.Pushpa Thangam
4. The District Level Scrutiny Committee
Tanjore Collectorate
Tanjore 613 001.

... Respondents

Petition under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records relating to the proceedings in Na.Ka.No.M1/274/2011 dated 07.11.2015 on the file of the first respondent and quash the same and consequently, direct the first respondent to conduct an enquiry and restore the petitioner's earlier community status.

For Petitioner : Mr.B.Kumarasamy
For Mr.R.Gokulakrishnan

For Respondents 1 & 4 : Mrs.A.Srijayanthi
Special Government Pleader

O R D E R
(Made by Huluvadi G.Ramesh,J)

Challenging the order of cancellation of community certificate passed by the first respondent, the petitioner has filed this writ petition.

2. According to the petitioner, she belongs to Hindu Parayar community and she was issued with a community certificate by the Tahsildar, Ariyalur. She applied for Gas Agency under the reserved category and she was selected as LPG dealer. The third respondent filed a writ petition in W.P.No.655 of 2013 to direct the second respondent to consider her representation dated 21.12.2012 seeking to cancel the selection of the petitioner as dealer on the ground that the petitioner is not eligible to apply under reserved category. The said writ petition was disposed of directing the second respondent to consider and pass orders on the representation of the third respondent. Accordingly, the second respondent constituted a Committee to get clarification from the Revenue Divisional Officer, Ariyalur, as to the community status of the petitioner.

3. The Revenue Divisional Officer, by order dated 20.6.2014, cancelled the community certificate of the petitioner based on the recommendation made by the Tahsildar of Ariyalur, against which, the petitioner filed W.P.No.17627 of 2014 and the same was disposed of, setting aside the order of the Revenue Divisional Officer, with a direction to place the matter before the first respondent within four weeks and directing the first respondent to cause enquiry and pass orders, after affording opportunity of hearing to the petitioner, within eight weeks thereafter.

4. The first respondent declared the community certificate of the petitioner as a bogus one, forcing the petitioner to file W.P.No.21518 of 2015. The said writ petition was allowed and the matter was remitted to the first respondent for fresh consideration, holding that anthropologist was not a party to the decision making process and the petitioner was not given an opportunity of hearing. Thereafter, by the order impugned in this writ petition, the first respondent declared that the petitioner belongs to Christian Parayan community. Contending that the first respondent passed an order without conducting any enquiry, the petitioner has come up with this writ petition.

5. Heard Mr.B.Kumarasamy, learned counsel appearing for the petitioner and Mrs.A.Srijayanthi, learned Special Government Pleader appearing for the first and fourth respondents.

6. Admittedly, against the order of the District Level Scrutiny Committee, an appeal lies to the State Level Scrutiny Committee. The petitioner has chosen to come before this Court without preferring an appeal before the State Level Scrutiny Committee. When there is an appeal provision and the petitioner has come before this Court without exhausting the same, it may not be appropriate for this Court to consider the matter.

7. In view of the above, the petitioner is directed to prefer an appeal before the State Level Scrutiny Committee within a period of fifteen days from the date of receipt of a copy of this order. On such appeal being preferred by the petitioner, the State Level Scrutiny Committee is directed to consider the said appeal and pass orders, in accordance with law, after affording an opportunity of personal hearing to the petitioner, within a period of two months thereafter. Till an order is passed on such appeal, the order of the District Level Scrutiny Committee shall stand stayed.

The writ petition is disposed of with the above directions. There shall be no order as to costs. Consequently, M.P.No.1 of 2015 is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kpl

To

1. The District Level Scrutiny Committee
Ariyalur Collectorate
Ariyalur 621 704.

2. The District Level Scrutiny Committee
Tanjore Collectorate
Tanjore 613 001.

+lcc to Mr.R.Gokulakrishnan, Advocate, S.R.No.28089
+lcc to the Government Pleader, S.R.No.37968

W.P.No.41047 of 2015

PA(CO)
CA(29/07/2016)