

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Writ Petition No.6735 of 2015
and
M.P.No.2 of 2015

Gowrishankar

...Petitioner

Vs.

The Chairman
State Level Scrutiny Committee
and Secretary to Government,
Adi Dravidar & Tribal Welfare Department,
Namakkal Kavignar Maligai
Fort St. George
Secretariat, Chennai-9

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorari to call for the records of the respondent in its proceedings No.9861/ADW5/2013-12, dated 31.07.2014(received on 19.08.2014) and quash the same.

For Petitioner : Mr.V.Elangovan

For Respondent : Mrs.R.Prathapkumar,
Additional Government Pleader

O R D E R

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

This writ petition has been filed praying for issuance of a writ of certiorari and to quash the proceedings of the respondent/State Level Scrutiny Committee vide proceedings No.9861/ADW5/2013-12, dated 31.07.2014, in and by which, the respondent Committee has held that the petitioner does not belong to 'Kondareddis' Scheduled Tribe Community and the

community certificate issued to the petitioner that he belongs to 'ST Kondareddis' is not genuine and consequently, cancelled the Scheduled Tribe Community Certificate issued to the petitioner, on 13.09.1978.

2. The petitioner claims that he belongs to 'Kondareddis' caste which is scheduled tribe community and in support of his community status, he had obtained a certificate as early as on 13.09.1978 from the then Tahsildar, Saidapet. On the basis of his community status, the petitioner was appointed as Clerk in the Office of the Accountant General. According to the petitioner, after completion of 33 years of service, his community certificate was subjected to verification before the State Level Scrutiny Committee.

3. According to the petitioner, without following due procedure as is contemplated under the law and without proper enquiry, the State Level Scrutiny Committee had come to the conclusion that the petitioner did not belong to 'Kondareddis' community and thereby passed the order cancelling the petitioner's community certificate, which is impugned in this writ petition.

4. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

5. The learned counsel for the petitioner contended that the impugned order was passed without following the procedure envisaged in the G.O./instructions and directions of the Hon'ble Supreme Court and this Court. He would further submit that it is for the Scrutiny Committee to secure report from the Vigilance committee and thereafter only it can pass orders, following the procedures laid down in the decision of the Hon'ble Supreme Court in *Kumari Madhuri Patil and another vs. Addl. Commissioner, Tribal Development and Others*, (1994) 6 SCC 241, which has been followed by this Court in the case in *G.Venkitasamy and another versus The Chairman, State Alevel Scrutiny Committee and Secretary to Government, Adi Dravidar and Tribal Welfare Department* - "(2016) 1 MLJ 606". The learned counsel has also relied upon the judgment of this Court in *W.P.No.30862 of 2014*, dated 17.11.2016, and submitted that when identical issue came up before this Court for consideration, this Court, referring to the judgment of the Hon'ble Supreme Court in *G.Venkitasamy's case*, set aside the impugned order and remanded the matter back to the respondent for fresh consideration.

6. We have also gone through the judgment of the Division Bench of this Court in W.P.No.30862 of 2014, dated 17.11.2016, relied on by the learned counsel for the petitioner. In G.Venkitasamy Vs. The Chairman, State Level Scrutiny Committee and Secretary to Government, Adi Dravidar and Tribal Welfare Department, this Court has laid down the following guidelines, in the matters relating to issuance of community certificate.

"29. From the afore stated analysis, it is manifest that the authorities are required to investigate, identify and conduct the enquiry in the following manner:

i The authority competent to issue the community certificate, on receipt of the application, shall investigate the application in an open and transparent fashion, affording opportunity of hearing.

ii The candidate shall have full liberty to explain the documents placed by him or collected by the investigating agency and he shall have opportunity to cross examine the witnesses, if required. The entire exercise shall be completed at the earliest, preferably, within a period of three months.

iii On receipt of the community certificate issued by the competent authority, the candidate or any other party interested therein may refer the matter to the State Level Scrutiny Committee for verification.

iv On receipt of the application for verification, the State Level Scrutiny Committee shall refer the matter to the Vigilance Cell for enquiry.

v The Vigilance Cell, as constituted, shall investigate into the social status claim of the applicant, visiting the local place of residence and original place from which the candidate hails and usually resides. The Vigilance Officer, assisted by the Inspector of Police, shall verify all the documents and collect relevant facts in an open and transparent manner from all the relevant places such as school, locality, etc. and persons such as parents and

close relatives and also examine the school officials, parents/guardians and other close relatives of the concerned caste. The Vigilance Cell shall also record the anthropological and ethnological traits and rituals, customs, mode of marriage and other ceremonies of the community claimed by the candidate. Thereafter, on receipt of explanation from the candidate, on a proper examination of the same, a reasoned report shall be submitted to the State Level Scrutiny Committee.

vi The State Level Scrutiny Committee, on receipt of the Vigilance Cell report, if it is found adverse, shall issue a show cause notice to the candidate with a copy of the report and all the documents submitted by the Vigilance Cell to the concerned candidate, calling upon him to file his reply/explanation/representation and also express his intention to examine witnesses, if necessary. In the event, the report supports the claim of the candidate, the State Level Scrutiny Committee shall not proceed further, but, to pass the order.

vii The State Level Scrutiny Committee, on completion of the enquiry, shall send a copy of the proceedings/order to the candidate within a period of two weeks.

viii Such verification shall be completed within a period of two months, after receipt of the Vigilance Cell report, preferably, by day-to-day proceedings [See paragraph 13(9) of Kumari Madhuri Patil and another vs. Addl. Commissioner, Tribal Development and Others, (1994) 6 SCC 241.

30. All the authorities involved in the process shall adhere to the aforesaid parameters, which are supplemental to the guidelines laid down by the Supreme Court in Kumari Madhuri Patil and another vs. Addl. Commissioner, Tribal Development and Others, (1994) 6 SCC 241 and Anand Vs. committee for Scrutiny and Verification of Tribe Claims and Others (2012) 1 SCC 113 in their letter and

spirit."

7. In view of the submissions made by the learned counsel for the petitioner and also the procedure laid down in the cases of Kumari Madhuri Patil and G.Venkitasamy, referred to supra, the impugned order is set aside and the matter is remanded to the respondent, who shall hold enquiry afresh from the stage of submission of fresh Vigilance Cell report after following the directions of this Court as extracted in the foregoing paragraph and after issuing a fresh show cause notice, pass appropriate orders as expeditiously as possible.

8. The writ petition is disposed of accordingly. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CCC)

/ True Copy /

Sub Assistant Registrar

msk

To

The Principal Secretary/Chairman
State Level Scrutiny Committee
Department of Adi Dravidar & Tribal Welfare
Namakkal Kavignar Maligai
Fort St. George
Chennai-9

+1CC to Mr.Doraisamy, Advocate, SR 70206

+1CC to Government Pleader, SR 70969

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KS (CO)
PSI 09/02/2017