

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.25522 of 2016
and
WMP.No.21880 and 21881 of 2016

G.Rangarajan

... Petitioner

Vs.

1. State Level Scrutiny Committee
Rep. By its Chairman
Adi Dravidar and Tribal Welfare Department
Secretariat
Chennai-600 009
 2. The Director of Tribal Welfare Department
Chepauk, Chennai-600 005
 3. The Deputy Superintendent of Police
SC/ST Vigilance Cell
Salem Region, Room No.109
Collectorate, Salem-1
- ... Respondents

Writ Petition filed praying to issue a Writ of Certiorari calling for the records relating to the Vigilance Cell Report in C.No.28/DSP/SC/ST Vigilance Cell/Salem Region/2015, dated 28.12.2015 on the file of the 3rd respondent and the consequential show cause notice in R.C.No.TD/B2/264/2015 dated 30.06.2016 on the file of the 2nd respondent and quash the same.

For Petitioner : Mr.S.Doraisamy

For Respondents : Mrs.A.Srijayanthi,
Special Government Pleader
for R1 to R3

ORDER

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

Heard the learned counsel for the Petitioner and Mrs.A.Srijayanthi, who accepts notice for respondents 1 to 3.

2. In the grounds of the Writ Petition, it is averred that the State Level Scrutiny Committee alone is empowered to receive the report from the Vigilance Officer and to issue show cause notice, whereas in this case, the 3rd respondent have sent the report to the 2nd respondent and the 2nd respondent issued the show cause notice to the petitioner, however, the 2nd respondent has no authority either to issue show cause notice or to conduct an enquiry.

3. The learned counsel for the petitioner submits that the petitioner was not given any opportunity to cross examine the witnesses and the Vigilance Report did not contain the relevant document relied upon by the Vigilance Officer.

4. We have anxiously considered the submission made by the learned counsel for the Petitioner and the learned Special Government Pleader, appearing for the respondents.

5. We have also gone through the judgment of a Division Bench of this Court in W.P.Nos.30368 and 31973 of 2015 dated 21.12.2015, relied on by the learned counsel for the petitioner. Accordingly, following the said judgment dated 21.12.2015 in the case of G.Venkitasamy Vs. The Chairman, State Level Scrutiny Committee and Secretary to Government, Adi Dravidar and Tribal Welfare Department, we direct the respondents to adhere the following guidelines while issuing community certificate.

" 29. From the aforesaid 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 (supra)].

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."

6. For the aforesaid reasons, we are of the view the impugned proceedings suffer from infirmities of not conducting the enquiry, strictly as per the required parameters and are in violation of principles of natural justice.

7. In the result, the impugned show cause notice dated 30.06.2016 passed by the 2nd respondent is set aside and the respondent Committee is directed to conduct a fresh enquiry from the stage of submission of Vigilance Cell report, after issuing a fresh show cause notice with all the documents annexed therewith. The entire exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

8. The writ petition stands allowed in the above terms. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

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सत्यमेव जयते
Sub Assistant Registrar

nvsri

To

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

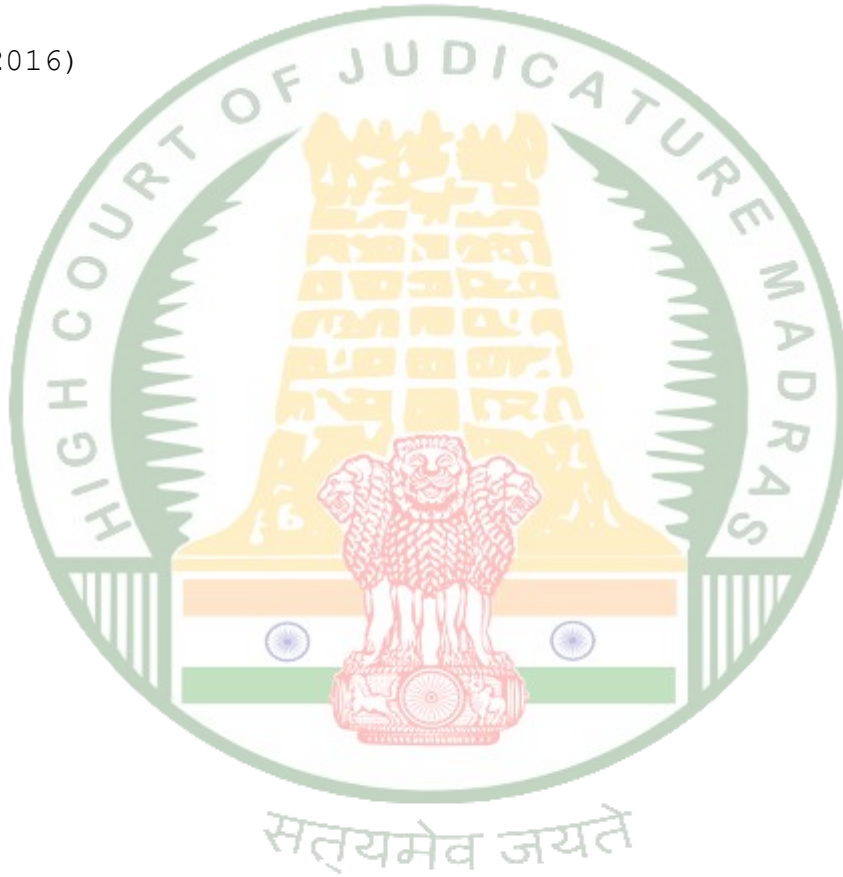
2. The Director of Tribal Welfare Department
Chepauk, Chennai-600 005

3. The Deputy Superintendent of Police
SC/ST Vigilance Cell
Salem Region, Room No.109
Collectorate, Salem-1.

+1cc to Mr.S.Doraisamy, Advocate, S.R.No.41868
+1cc to the Government Pleader, S.R.No.41931

W.P.No.25522 of 2016

AK(CO)
CA(09/08/2016)



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