

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2016

CORAM

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

Writ Petition No.27402 of 2016
and WMP.No.23605 of 2016

T.ChozhavendanPetitioner

Vs.

- 1 The Principal Secretary/Chairman
State Level Scrutiny Committee
Department of Adi Dravidar & Tribal Welfare
Namakkal Kavignar Maligai
Fort St. George Chennai-9
- 2 The Tamilnadu Public Service Commission
rep. by its Secretary
Frazer Bridge Road VOC Nagar, Park Town
Chennai-3Respondents.

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to issue genuineness report for the Community Certificate of the petitioner bearing ROC No.224/95/A3 dated 1.6.1995 issued by the Revenue Divisional Officer, Dharmapuri based on the Vigilance Cell report dated 15.4.2016 and on the guidelines formulated by this Honourable High Court vide judgment dated 21.12.2015 passed in W.P.Nos.30368 & 31973 of 2015 within the time to be stipulated by this Honourable court.

For Petitioner : Mr.B.Kumar, Senior Counsel for
Mr.M.R.Sivakumar

For Respondents : Mrs.A.Sri Jeyanthi,
Special Government Pleader for R1

O R D E R

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

Heard Mr.B.Kumar, learned Senior Counsel appearing for the petitioner and Mrs.A.Srijayanthi, learned Special Government

Pleader, accepting notice for respondents.

2. The case of the petitioner is that he belongs to "Kurumans" community which is classified as Scheduled Tribe and he had been selected for the post of Civil Judge, Junior Division in the Tamil Nadu State Judicial Service vide the selection order dated 15.06.2015 issued by the 2nd respondent. Further, the petitioner's selection is said to have been based on reservation under the category of Scheduled Tribes and the 2nd respondent has referred the community certificate to the State Level Scrutiny Committee for ascertaining its genuineness. It is his further case that the enquiry report submitted by the Vigilance Cell has categorically confirmed that he belongs to "Kurumans" community and therefore, he sent a representation dated 21.07.2016 to the 1st respondent requesting to finalize the scrutiny process.

3. The learned Senior counsel appearing for the petitioner relied on the judgment passed by this court dated 21.12.2015 in W.P.Nos.30368 and 31973 of 2015 and sought to contend that the authorities while issuing the community certificates or scrutinizing the enquiry report might be cautious and circumspect but ought not reject the genuine case in which certificates are to be granted.

4. 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 senior 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 1st respondent to adhere the following guidelines while issuing genuineness report based on the Vigilance Cell report dated 15.04.2016.

" 29. From the aforestated 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."

5. With the above observations, we hereby direct the respondents/authorities to do the needful with regard to issuance of genuineness report in respect of the petitioner within two months from the date of receipt of a copy of this order.

6. The writ petition stands ordered in the above terms. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

nvsri
To

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

2 The Secretary
Tamilnadu Public Service Commission
Frazer Bridge Road
VOC Nagar, Park Town
Chennai-3

1 cc to Mr.M.R.Sivakumar, Advocate, sr.44704
1 cc to Government Pleader, sr.44753

W.P.No.27402 of 2016

scd co
kra 17.08.2016