

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2016

CORAM

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

W.P.No.29395 of 2016

M.Natarajan .. Petitioner

-vs-

The Director
Directorate of Tribal Welfare
Chennai-5 .. Respondent

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, calling for the records of the respondent in its Na.Ka.No.PaMa/A2/249/2016 dated 11.05.2016 and quash the same.

For Petitioner :: Mr.L.Chandrakumar
For Respondent :: Mr.P.S.Sivashanmugasundaram
Special Government Pleader

ORDER

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

Heard the learned counsel for the petitioner and the learned Special Government Pleader taking notice on behalf of the respondent.

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 the show cause notice, whereas in this case, the respondent has issued the impugned show cause notice to the petitioner, when she has no authority either to issue a 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 copies of the documents relied upon by the Vigilance Officer in the Vigilance Report were also not furnished to the petitioner.

4. We have anxiously considered the submission made by the learned counsel for the petitioner. The issue raised in this writ petition is no longer res integra, as a Division Bench of this Court in the judgment in G.Venkitasamy Vs. The Chairman, State Level Scrutiny Committee and Secretary to Government, Adi Dravidar and Tribal Welfare Department, 2016 (1) MLJ 606, has laid down the procedure to be followed for conduct of verification proceedings, in paragraphs-29 & 30, as follows:-

"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."

5. In the light of the above, the impugned show cause notice dated 11.5.2016 issued by the respondent is set aside. However, it is for the State Level Scrutiny Committee to proceed from the stage of submission of Vigilance Cell report after issuing a fresh show cause notice to the petitioner 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. The writ petition is disposed of accordingly. Consequently, W.M.P.Nos.25417 & 25418 of 2016 are closed. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

ss

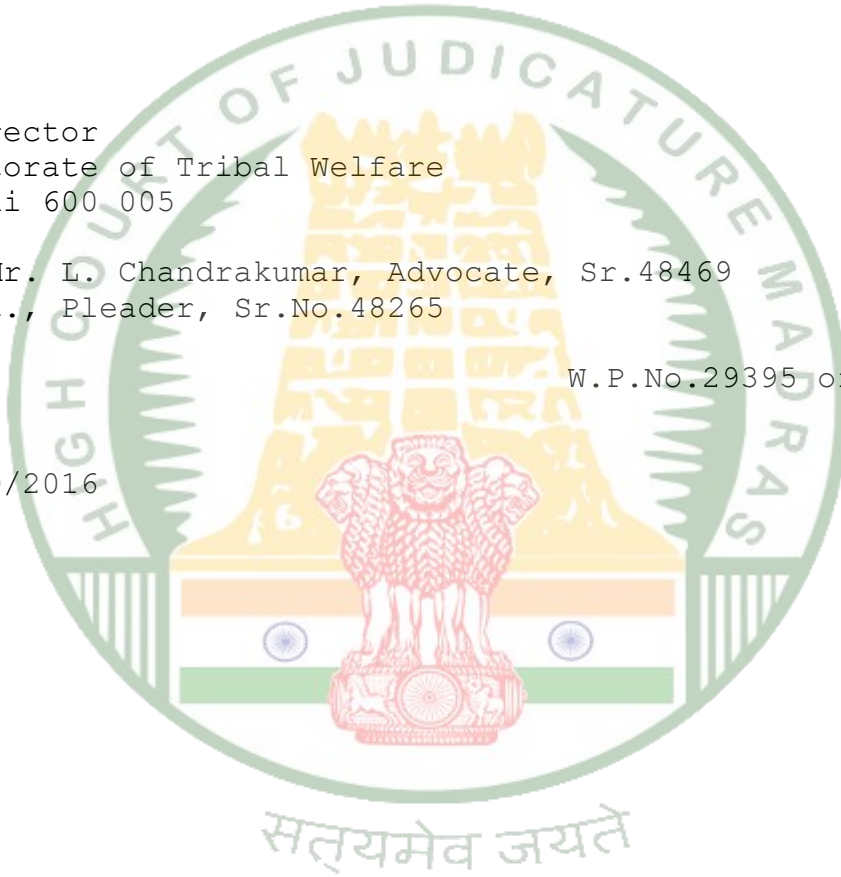
To

1. The Director
Directorate of Tribal Welfare
Chennai 600 005

+1 CC to Mr. L. Chandrakumar, Advocate, Sr.48469
+1 CC Govt., Pleader, Sr.No.48265

W.P.No.29395 of 2016

AD (CO)
MD : 14/09/2016



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