



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE J. NISHA BANU

W.P(MD)No.23124 of 2015 and M.P(MD)No.1 of 2015

&

W.P(MD)No.23135 of 2015 and M.P(MD)No.1 of 2015

&

W.P(MD)No.23188 of 2015 and M.P(MD)No.1 of 2015

W.P(MD)No.23124 of 2015:

S.Balakrishnan

... Petitioner

Vs.

1.The State of Tamil Nadu,
represented by
The Secretary to Government,
Adi Dravidar & Tribal Welfare Department,
Fort St. George,
Chennai - 9.

2.The District Collector/Chairman,
District Level Vigilance Committee,
Dindigul District.

3.The District Collector,
Dindigul District, Dindigul.

4.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Palani,
Dindigul District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records made in Na.Ka.No.H1/24414/15, dated 27.10.2015 passed by the second respondent and quash the same and further direct the respondents to issue Community Certificate to the petitioner as Malaivedan Community which is declared as Scheduled Tribe.

For Petitioner : Mr.M.V.Venkataseshan

For Respondents : Mr.D.Muruganantham



W.P(MD)No.23135 of 2015:

P.Kannaian

... Petitioner

Vs.

1.The State of Tamil Nadu,
represented by
The Secretary to Government,
Adi Dravidar & Tribal Welfare Department,
Fort St. George,
Chennai - 9.

2.The District Collector/Chairman,
District Level Vigilance Committee,
Dindigul District.

3.The District Collector,
Dindigul District, Dindigul.

4.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Palani,
Dindigul District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records made in Na.Ka.No.H1/24174/15, dated 27.10.2015 passed by the second respondent and quash the same and further direct the respondents to issue Community Certificate to the children of the petitioner, i.e. K.Ganesh Kumar, K.Anandha Kumar and K.Kaleeswari as Malaivedan Community which is declared as Scheduled Tribe.

For Petitioner : Mr.M.V.Venkataseshan

For Respondents : Mr.D.Muruganantham
Additional Government Pleader

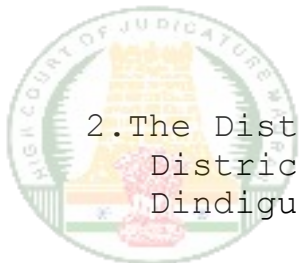
W.P(MD)No.23188 of 2015:

Ayyappan

... Petitioner

Vs.

1.The State of Tamil Nadu,
represented by
The Secretary to Government,
Adi Dravidar & Tribal Welfare Department,
Fort St. George,
Chennai - 9.



2.The District Collector/Chairman,
District Level Vigilance Committee,
Dindigul District.

3.The District Collector,
Dindigul District, Dindigul.

4.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Palani,
Dindigul District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records made in Na.Ka.No.H1/24681/15, dated 27.10.2015 passed by the second respondent and quash the same and further direct the respondents to issue Community Certificate to the petitioner and the children of the petitioner, i.e. Nagamari, Hariharan and Logeswaran as Malaivedan Community which is declared as Scheduled Tribe.

For Petitioner : Mr.M.V.Venkataseshan

For Respondents : Mr.D.Muruganantham
Additional Government Pleader

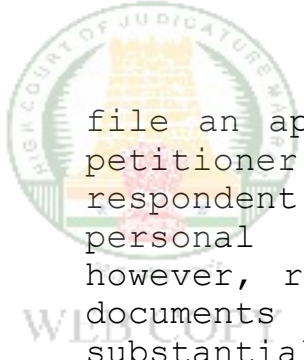
COMMON ORDER

(Order of the Court was made by M.SATHYANARAYANAN,J.)

By consent, all the writ petitions are taken up for final disposal and disposed of by this common order as the issue involved and to be adjudicated is one and the same.

W.P(MD)No.23124 of 2015:

2. The petitioner claims that he belongs to Hindu - Scheduled Tribe - Malaivedan Community and on 28.01.2013, he has submitted the application before the fourth respondent along with all documents, praying for issuance of the said Community Certificate, however, it was rejected on 18.11.2013 and challenging the same, he filed W.P(MD)No.19831 of 2013 and this Court, vide order dated 27.06.2014 has remanded the matter for fresh consideration. Accordingly, the fourth respondent called upon the petitioner on 18.08.2014 wherein he once again produced all the documents, however, the same was rejected on 09.09.2014 and it was again put to challenge in W.P(MD)No.21107 of 2015. This Court while disposing of the said writ petition, granted liberty to the petitioner to



file an appeal before the second respondent and accordingly, the petitioner filed an appeal on 13.08.2015 before the second respondent and the petitioner was called upon to appear for personal enquiry and submitted all the relevant documents, however, rejected the said application on the ground that in the documents and evidence let in by the petitioner, there is no substantial material to show that he belongs to Hindu - Scheduled Tribe - Malaivedan Community. The petitioner once again approached this Court in the form of the present writ petition challenging the impugned order dated 27.10.2015.

W.P(MD)No.23135 of 2015:

3. The petitioner claims that he belongs to Hindu - Scheduled Tribe - Malaivedan Community and in this regard, he has submitted a representation dated 25.08.2010 and followed by a reminder dated 26.09.2012 and he was called for enquiry and a positive recommendation was made for issuance of a Community Certificate in his favour on 19.03.2013. However, the Revenue Divisional Officer has rejected the request made by the petitioner for issuance of a Community Certificate vide order dated 04.12.2013 and it was put to challenge in W.P(MD)No.2899 of 2015, wherein this Court while disposing of the writ petition, has given a liberty to the petitioner to prefer an appeal before the District Collector and accordingly, the appeal was filed and the same came to be rejected by the District Collector/Chairman of the District Level Vigilance Committee, vide order dated 02.07.2015, stating, among other things, that based on the documents collected during enquiry and from the evidence available, there is no substantial material to conclude that the petitioner belongs to the said Community. The petitioner made a challenge to the said order by filing the present writ petition.

W.P(MD)No.23188 of 2015:

4. The petitioner claims that he belongs to Hindu - Scheduled Tribe - Malaivedan Community and in this regard, he submitted an application dated 20.07.2013 for getting the Community Certificate to him as well as for his sons and daughter and since it was not considered, he filed W.P(MD)No.14701 of 2013 and this Court has directed the concerned respondent to consider and dispose of the representation of the petitioner in accordance with law and without properly advertent to the order of this Court, the fourth respondent has rejected the said request and a challenge was made by filing W.P(MD)No.5318 of 2014 and this Court, vide order dated 02.07.2015, has directed the petitioner to approach the second respondent and accordingly, he was called for enquiry wherein he submitted the relevant documents and without properly advertent to the said order, vide impugned order dated 27.10.2015, dismissed the appeal and therefore, the challenge has been made to the said order by filing the present writ petition.



5. Mr.M.V.Venkataseshan, learned Counsel for the petitioners in all the writ petitions has drawn the attention of this Court to the impugned orders passed by the second respondent in the writ petitions and would submit that the reasons assigned in the impugned orders are identical and though reliance has been placed upon the report of the Committee, the copy of the same has not been furnished to the petitioners and despite production of overwhelming documents, the nature and purport of the same have not been properly considered by the second respondent.

6. The learned Counsel for the petitioners would further add that the matters may be remanded to the State Level Scrutiny Committee for fresh adjudication and therefore, he prays for appropriate orders.

7. Per contra, the learned Additional Government Pleader appearing for the respondents would contend that the second respondent, on a proper consideration and appreciation of the relevant documents, has rightly reached the conclusion that the petitioners are not entitled to get Hindu - Scheduled Tribe - Malaivedan Community Certificate and rightly rejected the applications and this Court, in exercise of it's jurisdiction under Article 226 of the Constitution of India may not interfere with the same and therefore, he prays for the dismissal of the writ petitions.

8. This Court paid it's best attention to the rival submissions and perused the materials available on record.

9. A perusal of the orders passed by the Division Bench of this Court in (i) *S.Balakrishnan v. The State of Tamil Nadu rep. by the Secretary to Government, Adi Dravidar & Tribal Welfare Department, Fort St. George, Chennai - 9 and others* [W.P(MD) No.21107 of 2014, decided on 02.07.2015]; (ii) *P.Kannaian v. The State of Tamil Nadu rep. by the Secretary to Government, Adi Dravidar & Tribal Welfare Department, Fort St. George, Chennai - 9 and others* [W.P(MD)No.2899 of 2015, decided on 02.07.2015]; and (iii) *Ayyappan v. The Revenue Divisional Officer, Dindigul* [W.P (MD)No.5318 of 2014, decided on 02.07.2015], would disclose that the Division Bench of this Court, while disposing of the said writ petitions, has granted liberty to the petitioners therein to approach the District Collector as he being the appellate authority for redressal of their grievance. However, the revisional authority namely, the second respondent Committee has considered and disposed of the applications submitted by the petitioners therein on the ground that the report as well as the documents furnished did not support their stand that they belong to the Scheduled Tribe - Malaivedan Community.

<https://hdservices.hds.gov.in/hdservices>

10. In the considered opinion of this Court, in the light of G.O.(Ms)No.235, Revenue [RA3(2)] Department, dated 26.06.2015, the



jurisdictional District Collector ought to have passed the orders, instead of the revisional authority, namely, the District Level Vigilance Committee, in which, the District Collector is one of the members and that apart, in compliance of the said order, the second respondent Committee has considered the application for issuance of the Community Certificate and placed reliance upon the report of the said Committee and also taken into consideration the documents produced by the petitioners to conclude that they do not belong to the said Community.

11. It is pertinent to point out at this juncture that the copies of the report relied on for the purpose of rejecting the said request made by the petitioner have not been furnished to the petitioners and in the considered opinion of this Court, since the said document has been placed reliance also to conclude that they do not belong to the said Community, in all fairness, before doing so, the petitioners ought to have been furnished with the said report and thereafter, appropriate orders should have been passed. Unfortunately, the second respondent did not do so.

12. As per G.O.(Ms)No.147, Revenue [RA-3(2)] Department, dated 17.03.2016, an amendment was brought forth to G.O(Ms)No.235, Revenue [RA3(2)] Department, dated 26.06.2015 and as per the said amendment, as far as the Scheduled Tribes are concerned, as against the orders of the District Collector, the State Level Scrutiny Committee is the authority constituted for redressal of grievance.

13. In the light of the facts and circumstances of the case, this Court is of the view that the impugned orders passed by the second respondent warrant interference and the matters are remanded to the State Level Scrutiny Committee for fresh disposal in accordance with the law.

14. In the result, all the writ petitions are partly allowed and the impugned orders passed by the second respondent are set aside and the second respondent Committee is directed to furnish the copy of it's report to the petitioners within a period of two weeks from the date of receipt of a copy of this order. The petitioners, on receipt of the copy of the said report, shall file necessary applications/representations before the Redressal of Grievance Authority, namely, the State Level Scrutiny Committee, enclosing all the relevant documents, within a period of three weeks thereafter and the said Committee shall entertain the same, if the papers are otherwise in order and pass appropriate orders on merits and in accordance with law within a period of ten weeks thereafter and communicate the decision taken to the petitioners. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

Sub-Assistant Registrar



To

1.The Secretary to Government,
State of Tamil Nadu,
Adi Dravidar & Tribal Welfare Department,
Fort St. George,
Chennai - 9.

2.The District Collector/Chairman,
District Level Vigilance Committee,
Dindigul District.

3.The District Collector,
Dindigul District, Dindigul.

4.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Palani,
Dindigul District.

+3 ccs to The Special Government Pleader, SR.Nos.68853,68856 and
68861 each

+3cc to Mr.M.V.Venkataseshan, Advocate, SR.Nos.68671, 68672 and
68673 each

rsb

RL/11C/7P/SS3/SAR3/23.11.2016

W.P (MD) No.23124 of 2015
and M.P (MD) No.1 of 2015

&
W.P (MD) No.23135 of 2015
and M.P (MD) No.1 of 2015

&
W.P (MD) No.23188 of 2015
and M.P (MD) No.1 of 2015

14.11.2016