



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P(MD)No.14168 of 2011

and

M.P(MD)No.1 of 2011

S.Saravanan

...Petitioner

Vs.

The State Level Caste Scrutiny Committee,
Rep. By its Chairman cum Secretary to Government,
Adi-Dravidar and Tribal Welfare Department,
Fort Steerage, Chennai 600 009.

...Respondent

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the impugned order of the respondent in proceedings No.19043/CV.III/2009 dated 14.10.2011 and quash the same.

For Petitioner :Mr.M.Suresh Kumar

For Respondent :Mr.A.K.Baskara Pandian

Additional Government Pleader

ORDER

(Judgment of this Court was delivered by M.SATHYANARAYANAN, J.)

This Writ Petition is taken up for final disposal. The petitioner claims that he belongs to Hindu Malakuravan Scheduled Tribe Community and his father was issued with Community Certificate by the Head Quarters Deputy Tahsildar, Pattukkottai on 18.07.1979 and he was an employee of Southern Railway and in a letter of Assistant Personnel Officer, Southern Railway, Golden Rock, dated 02.06.1987, it has been stated that his father was employed as Fitter in the Diesel Shop, Golden Rock and he belongs to Hindu Malakuravan Scheduled Tribe Community as per his Service records.

2. It has been further submitted by the petitioner that he was also issued with Community Certificate by the Tahsildar, Head Quarters, Pattukkottai, in S.I.NO.2123/88.A5 dated 04.05.1988 stating that he belongs to the said community and subsequently issued with permanent Community Certificate bearing No.3594154 by the Revenue Divisional Officer, Trichirappalli. The petitioner, after graduation, had applied for recruitment calling for filing up of vacancy by the Tamilnadu Public Service Commissioner and along with application enclosed copy of his Community Certificate

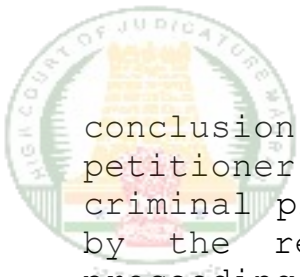
and the said authority, in turn, has referred the same to the State Level Scrutiny Committee for verification.

3. The State Level Scrutiny Committee had conducted an enquiry as to the genuineness of the Community Certificate and filed a report vide proceedings dated 14.10.2011 and has found that the Hindu Malakuravan Scheduled Tribe Community Certificate issued to him by the Revenue Divisional Officer, Trichirappalli is a bogus one and therefore, directed the concerned authorities to initiate criminal proceedings against the petitioner for forging the Community Certificate and challenging the legality of the said proceedings, the present writ petition has been filed.

4. The learned counsel for the petitioner has drawn attention of this Court to paragraph No.12 of the judgment of the Hon'ble Supreme Court of India in Kumari Madhuri Patil and another Vs. Additional Commissioner, Tribal Development and others reported in AIR 1995 Supreme Court 94 and he would contend that a procedure has been contemplated in respect of verification of community status and as per paragraph No.5 of paragraph No.12 of the said judgment, the concerned Directorate should constitute a vigilance cell and thereafter, the Vigilance Officer should personally verify and collect all the facts of the social status claimed by the candidate and examine the school records, birth registration if any and the parent, guardian or the candidate in relation to their caste etc. Admittedly, in terms of the said judgment, at the time of passing impugned proceedings, the District Level Vigilance Cell has not been constituted and only subsequent to the impugned proceedings, the Adi Dravidar and Tribal Welfare (CV I) Department vide in G.O.Ms.No.106 dated 15.10.2012 has constituted the said committee and in the absence of verification of the report by the said Committee, impugned proceeding is unsustainable.

5. It is further submission of the learned counsel for the petitioner that the report of the Revenue Divisional Officer has been obtained behind the back of the petitioner to arrive at the conclusion that the certificate issued to the petitioner is a bogus one. Admittedly, copy of the said report has not been furnished to the petitioner and therefore, prays for setting aside the impugned proceedings and remand back the matter once again to conduct enquiry by the concerned Vigilant Cell in terms of G.O.Ms.No.106 Adi Dravidar and Tribal Welfare (CV I) Department.

6. Per contra, Mr.A.K.Baskara Pandian, learned Additional Government Pleader appearing for the respondent would contend that the State Level Scrutiny Committee has gone into the issue and the Anthropologist is of the opinion that the statement of the petitioner with regard to his community status is not satisfactory. The Revenue Divisional Officer, Trichirappalli said to have issued permanent Community Certificate also denied that no such Certificate was issued by him and has rightly arrived at the



conclusion in holding that the Community Certificate issued to the petitioner is a bogus one. Therefore, directed to initiate criminal proceedings and there is no error in the reasons assigned by the respondent and this Court may not interfere in the proceedings and prays for dismissal of the writ petition with exemplary costs.

7. This Court considered the rival submissions and also perused the materials available on record.

8. Conducting of enquiry by the Vigilant Cell also came for consideration before the Hon'ble Division Bench of this Court in G.Venkitasamy & Another Vs. The Chairman, State Level Scrutiny Committee and Secretary to Government, Adi Dravidar and Tribal Welfare Department, Chennai-9, reported in 2016-1-L.W.289. The Division Bench, taking into consideration the judgment cited supra as well as G.O.Ms.No.106 Adi Dravidar and Tribal Welfare (CV I) Department in paragraph Nos.29 and 30, has observed 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:

iThe 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.

iiThe 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 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.

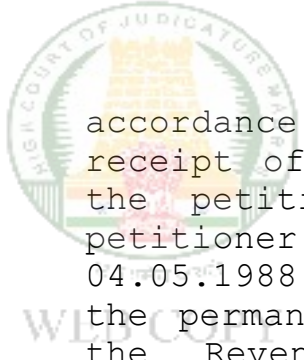
vii. The State Level Scrutiny Committee, on completion of the enquiry, shall send a copy of the proceedings/order to the candidate within a period of two weeks.

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 (supra) and Anand (supra) in their letter and spirit.

9. Admittedly, as per the judgment cited supra, Vigilant Cell has been constituted only subsequent to the present impugned proceedings and G.O.Ms.No.106 Adi Dravidar and Tribal Welfare (CV I) Department., 15.10.2012. Since the Hon'ble Supreme Court of India mandates constitution of Vigilant Cell which came into existence subsequent to the impugned order and in the light of the judgment rendered by the Division Bench in 2016-1-L.W.289, this Court is of the considered view that the impugned proceedings of the respondent warrant interference for the reason that without getting the opinion/report of the Vigilant Cell, conclusion has been arrived to the effect that the Community Certificate issued to the petitioner by the Revenue Divisional Officer is a bogus one.

10. In the result, this writ petition is partly allowed and the impugned proceedings are set aside and the matter is once again remanded back to the respondent, who is directed to conduct fresh enquiry, upon conduct of enquiry in terms of G.O.Ms.No.106 Adi Dravidar and Tribal Welfare (CV I) Department, dated 15.10.2012 and after obtaining Vigilance Cell report and following the procedure contemplated in the said G.O, take a decision in



accordance with law within a period of 10 weeks from the date of receipt of a copy of this order and communicate the decision to the petitioner and till such time, it is not open to the petitioner to rely upon the Community Certificates dated 04.05.1988 issued by the Head Quarters Tahsildar, Pattukkottai and the permanent Community Certificate bearing No.3594154 issued by the Revenue Divisional Officer, Trichirappalli. No costs. Consequently, connected M.P.(MD) No.1 of 2011 is closed.

Sd/-

Assistant Registrar(Crl.side)

/True copy/

Sub Assistant Registrar(CS)

To
The Chairman cum Secretary to Government,
State Level Caste Scrutiny Committee,
Adi-Dravidar and Tribal Welfare Department,
Fort Steerage, Chennai 600 009.

+1cc to the Special Government Pleader in SR.62292

+1cc to Mr.M.Suresh Kumar, Advocate in SR.61831

W.P(MD)No.14168 of 2011

and

M.P(MD)No.1 of 2011

cm.

PBK/EM-MPA 11.11.2016 ::5P-4C: