



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.11.2016

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
and
THE HONOURABLE MRS. JUSTICE J. NISHA BANU

W.P (MD) .No.4376 of 2011
and
M.P. (MD) .No.1 of 2011

M.Kulanthaivel

... Petitioner

Vs

1.The Chairman,
District Vigilance Committee,
Tirunelveli District,
Collectorate, Tirunelveli-627 002.

2.Head Quarters Deputy Tashildar,
Collectorate, Tirunelveli-627 002.

3.The Manager,
United Commercial Bank,
Panagammal Compound,
Main road,
Gopalamudram-627 451,
Tirunelveli District.

... Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying for a Writ of Certiorari to call for the records relating to the proceedings in NM(Aa.4) 39688/2009 dated 11.03.2011 on the file of the first respondent herein and to quash the same.

For Petitioner	:Mrs.Jessi Jeeva Priya for Mr.R.Subbiah
For R.1&2	:Mr.R.Velmurugan Govt.Advocate
For R.3	:Mr.K.Periasamy

ORDER

[Order of the Court was made by **M. SATHYANARAYANAN, J.**]

<https://hcservices.ecourts.gov.in/hcservices/> By consent, this Writ Petition is taken up for final disposal. Mr.R.Velmurugan, learned Government Advocate accepts



notice for the respondents 1 to 3.

2. A perusal of the affidavit filed in support of the Writ Petition would disclose among other things that the petitioner claims that he belongs to 'Hindu Sholaga Community', which is a Scheduled Tribe Community and a certification to that effect by the competent authority-second respondent was issued vide proceedings dated 23.02.1983. The petitioner would further claim that at the time of admitting him in the school, the status of his community was recorded as 'Hindu Sholaga Community' and on the basis of the said Community Certificate, the petitioner was appointed as sub-staff under the third respondent. While so, the third respondent wanted to know the genuineness of the Community Certificate issued to the petitioner and accordingly, it was referred to the District Collector, Tirunelveli and the District Revenue Officer, Tirunelveli, vide his proceedings, dated 04.06.1986 reported that the petitioner belongs to 'Hindu Sholaga Community' and according to him, the Certificate given to prior to 1989 is still valid and inspite of that, it was once again sent for verification to the District Collector, Tirunelveli District. The petitioner expressing his grievance to the District Vigilance Committee that it has not been properly constituted made a challenge to the proceedings dated 16.11.2011 by filing W.P(MD). No.1255 of 2001 and this Court, vide its order, dated 27.07.2001, directed the petitioner to prefer an appeal before the State Level Scrutiny Committee and accordingly, it was preferred and pendency of the same, G.O.Ms.No.111, Adi Dravidar and Tribal Welfare Department, dated 06.07.2005, came to be issued by the Government and thereafter, the matter was remanded to the District Vigilance Committee, who after issuance of notice to the petitioner and participation by enquiry had passed the impugned order and assailing the same, the petitioner came forward to file this Writ Petition.

3. Learned Counsel for the petitioner inspite of availability of overwhelming documents evidencing the fact that the petitioner belongs to 'Hindu Sholaga Community', the material aspect has been completely overlooked by the first respondent and also drawn the attention of this Court to the order of this Court reported in **2000 (1) MLJ 267, Rejeswari Vs. The District Collector, Nellai Kattabomman District, Tirunelveli** and would further contend that challenging the expert opinion, the petitioner had also filed W.P(MD).No.13980 of 1999 and this Court, vide its order dated 13.11.2006, allowed the said Writ Petition and remanded the matter to the Collector of Tirunelveli District for fresh adjudication and without understanding the purport and scope of the matter, once again, the impugned order came to be passed by the respondents holding that the petitioner does not belong to the 'Hindu Sholaga Community' and therefore, prays for interference of this Court.



4. *Per contra*, Mr.R.Velmurgan, learned Government Advocate, on thorough scrutiny of materials found that the petitioner does not belong to 'Hindu Sholaga Community' and therefore, prays for the dismissal of the Writ Petition. He would further contend that in the light of the subsequent G.O.Ms.No.147, dated 17.03.2016, the petitioner has to work out his remedy by filing an appeal before the State Level Scrutiny Committee.

5. This Court has paid its best attention and perused the materials placed before it.

6. Learned Counsel for the petitioner primordially placed reliance upon the order reported in **2000 (1) MLJ 267, Rejeswari Vs. The District Collector, Nellai Kattabomman District, Tirunelveli**, wherein, the Order of Collector, Nellai Kattabomman District, Tirunelveli cancelling the Community Certificate of the petitioner therein was put to challenge. A perusal of the said judgment would disclose that during the enquiry, the Sub-collector had collected the materials behind the back of the petitioner therein and accordingly, findings came to be rendered and therefore, the order of the respondents therein held to be bad in law and it was further found that the father of the petitioner was having a valid certificate and as such, the Community Certificate granted in favour of the petitioner therein cannot be faulted with and therefore, it has been held that the petitioner therein belongs to Hindu Sholaga Community and the Community Certificate was also found to be genuine and citing the said reason, the Writ Petition came to be allowed.

7. A perusal of the typed set of papers and documents would disclose that the petitioner was issued with the Community Certificate bearing No.A7/24877/83/1234 dated 23.12.1983 by the Headquarters Deputy Tashildar, Tirunelveli, stating that he belongs to 'Hindu Sholaga Community' and it is also followed by another Certificate dated 19.07.1989 issued by the Tashildar, Tirunelveli and as per the proceedings of the Collector of Tirunelveli, dated 20.10.1997, which in turn has taken into consideration the Report of the Anthropologist's findings and reached the conclusion that there is no proof to show that the persons belong to 'Hindu Sholaga Community' came and settled in Tirunelveli District. However, according to the learned Counsel for the petitioner that based on the said proceedings only, another proceedings came to be passed, which was put to challenge in W.P(MD).No.13980 of 1999 and it was set aside and remanded and after remanding, the present impugned order came to be passed.

8. In the considered opinion of this Court, the findings

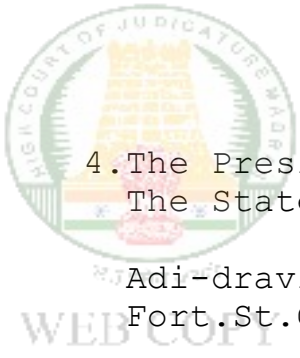
settled in
the order

To

Assistant Registrar (CO)

Sub Assistant Registrar

3.The Manager,
United Commercial Bank,
Panchayath Compound,
Main road, Gopalasamudram-627 451,
Tirunelveli District.



4.The President and Secretary to Government,
The State Level Vigilance Committee for
the Verification of Community Certificate,
Adi-dravidar and Tribal Welfare Department,
Fort.St.George, Chennai-9.

+1 cc to M/s.S.Suresh, Advocate in SR.No. 71597
+1 cc to M/s.K.Periasamy, Advocate in SR.No. 70961

ssm
CSL/PV/23.12.2016: 5P/7C

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