



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.11.2016

CORAM:

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

W.P (MD) .No.4981 of 2011
and
M.P. (MD) .No.1 of 2011

N.Thulasimani

... Petitioner

Vs

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

2.Tashildar,
Nanguneri, Tirunelveli District.

3.The Chairman,
Tuticorin Port Trust,
Tuticorin-628 004.

... 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) 39665/2009 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.A.Arivuchandran

ORDER

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

By consent, this Writ Petition is taken up for final disposal. <https://hcservices.ecourts.gov.in/hcservices/> 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 16.06.1979. 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, he secured employment with the third respondent and on attaining the age of superannuation, he retired from service in the year 2010.

2.1. The grievance expressed by the petitioner is that despite availability of abundant materials, his Community Certificate came to be cancelled vide proceedings dated 07.06.2001 and therefore, he made a challenge by filing W.P(MD).No.24898 of 2004 and a Division Bench of this Court, dated 09.08.2005 had set aside the same and remanded the matter back to the first respondent for fresh adjudication and accordingly, the first respondent also proceeded with the enquiry where the petitioner produced all the supporting documents and despite that, without properly considering the materials, the impugned order came to be passed once again cancelling the Community Certificate given to the petitioner and challenging the legality of the same, the petitioner is before this Court.

3. Learned Counsel for the petitioner would submit that 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 earlier the petitioner had also filed W.P(MD).No.24898 of 2004 and this Court, vide its order dated 09.08.2005, 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 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 judgment **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. 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. In the considered opinion of this Court, the findings primordially came to be rendered for the reason that Hindu Sholaga Community does not exist in Tirunelveli District. However, the order cited supra relied on by the learned Counsel for the petitioner shows that there is Hindu Sholaga Community and such Community Certificates were issued in favour of the persons settled in Tirunelveli District. It was a positive order quashing the order impugned therein and it was held that the petitioner therein belongs to 'Hindu Sholaga Community'. Since the impugned order primordially based on the findings of the Anthropologist Report, this Court lacks expertise to analyse the said report and is of the considered view that in the light of G.O.Ms.No.147, dated 17.03.2016, the petitioner has to approach the State Level Scrutiny Committee to assail the legality of the order, which is the subject matter of challenge in the Writ Petition.

8. In the result, this Writ Petition is partly allowed and the impugned order under challenge is set aside and the matter is remanded to the first respondent and the petitioner is at liberty to challenge the legality of the impugned order dated 11.03.2011 passed by the first respondent in the form of an appeal, within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, the State Level Scrutiny Committee shall consider the same and after giving an opportunity of personal hearing to the petitioner, pass orders on the merits and in accordance with law, within a further period of ten weeks thereafter and communicate the decision taken to the



petitioner, forthwith to work out his further remedy. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

/True copy/

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Sub Assistant Registrar

To

- 1.The Chairman,
District Vigilance Committee,
Tirunelveli District,
Collectorate, Tirunelveli-627 002.
- 2.The Tashildar,
Nanguneri, Tirunelveli District.
- 3.The Chairman,
Tuticorin Port Trust,
Tuticorin-628 004.
- 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.Subbiah, Advocate in SR.No. 71600
+1 cc to The Special Government Pleader in SR.No. 71099

ssm

CSL/PV/23.12.2016: 4P/7C

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(2/3)