



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2016

CORAM:

WEB COPY

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

W.P (MD) .No.5477 of 2011  
and  
M.P. (MD) .No.1 of 2011

P.Mahalakshmi

... Petitioner

Vs

1.The District Educational Officer  
at Tirunelveli,  
Seranmahadevi,  
Tirunelveli District.

2.The District Level Community Certificate,  
Verification and Vigilance Committee,  
Office of the District Collector,  
Tirunelveli District,  
Tirunelveli.

3.The Head Master,  
Government Higher Secondary School,  
Panagudi, Tirunelveli District.

4.The District Collector,  
Tirunelveli District,  
Tirunelveli.

... Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying for a Writ of Certiorari to call for the impugned order dated 11.03.2011 made in Neemu (A4)/39685/2009 passed by the second respondent and quash the same.

For Petitioner :Mr.Ramakrishnan for  
M/s.S.Palanivelayutham

For R.1,2 & 4 :Mr.R.Velmurugan

Government Advocate

: No appearance

ORDER

[Order of the Court was made by **J.NISHA BANU, J.**]

WEB COPY

This Writ Petition has been filed against the order, dated 11.03.2011, passed by the second respondent, namely, the District Level Community Certificate Verification and Vigilance Committee, cancelling the Community Certificate issued to the petitioner's husband stating that the Certificate obtained by him was not a genuine one. Aggrieved by the same, the petitioner has come forward with the present Writ Petition.

2. The case of the petitioner is that her husband A.Paramasivan was appointed as an Office Assistant in the Government High School, Palavoor, Tirunelveli District, in the year 1991. At the time of his appointment, the husband of the petitioner submitted a Community Certificate issued by the Tashildar, Nanguneri, Tirunelveli District, on 16.09.1980, to the effect that he belongs to 'Hindu Sholaga Community', which is a Scheduled Tribe. When the above Certificate was sent for verification, the District Collector, by his order dated 28.11.1996, cancelled the Community Certificate issued to the petitioner's husband. Challenging the correctness of the same, the petitioner's husband had filed W.P.No.19265 of 1996 and this Court, vide its order, dated 28.01.2004, allowed the said Writ Petition by granting liberty to the respondents therein to proceed afresh against the petitioner, by properly constituting a Vigilance Committee in terms of the directions issued by the Supreme Court in **Kumari Madhuri Patil and another Vs Additional Commissioner, Tribal Development and others**, reported in (1994) 6 SCC 241. When the enquiry proceedings were set in motion, the petitioner's husband died on 02.12.2009 and thereafter, the petitioner participated in the enquiry. Ultimately, the respondents rejected the claim of the petitioner and hence, this Writ Petition has been filed.

3. Learned Counsel for the petitioner would submit that despite a specific direction given by this Court to proceed with the enquiry in terms of the directions given in the decision cited supra, instead of the enquiry being conducted by the State Level Committee, the District Vigilance Committee has conducted the enquiry. Hence, there is a flaw in the impugned order and prays for appropriate orders.

4. *Per contra*, learned counsel for the respondents would submit that, as per G.O.Ms.No.2(D) No.3, Adi-Dravidar Welfare Department (Scheduled Tribe) (CV-1), dated 31.01.2008, only in respect of those matters which are pending prior to 12.09.2007, an enquiry was to be conducted by the District Vigilance Committee



and accordingly, in the present case also, the second respondent conducted an enquiry and found that the Community Certificate obtained by the petitioner is not a genuine one and subsequently, after due enquiry, the impugned order has been passed and hence, he prays for the dismissal of this Writ Petition.

WEB COPY

5. This Court has considered the rival submissions made on either side and perused the materials available on record.

6. Admittedly, in the case on hand, the respondents have not conducted the enquiry as contemplated in the decision reported in **Kumari Madhuri Patil and another Vs Additional Commissioner, Tribal Development and others, reported in (1994) 6 SCC 241**. Further, on an earlier occasion, when the petitioner's husband had moved W.P.No.19625 of 1996, challenging the cancellation of the Community Certificate, this Court, vide its order dated 28.01.2004, has specifically held that the enquiry should be conducted only as per decision cited supra. However, the respondents did not choose to follow the direction issued by this Court. On this sole ground, the impugned order is liable to be set aside. That apart, from a perusal of the records produced by the second respondent, it is seen that only documentary evidence has been verified and no oral enquiry or affinity test has been conducted as reported in the decision of the Full Bench of the Bombay High Court in the case of **Shilpa Vishnu Thakur etc Vs. State of Maharashtra and Others, 2010 CIJ 17 FBJ**. In the said decision, it has been specifically held that the process of verification of caste claims involves an enquiry not merely into the documentary materials on the basis of which the caste claim is founded, but equally a verification of the claim with reference to the affinity of the candidate is to be done with a designated Scheduled Tribe. The yardstick for determining the affinity of the candidate with a designated Scheduled Tribe includes the rituals of the tribe and its customs, worship, ceremonies associated with birth, marriage and death and the conventions followed for the disposal of dead bodies.

7. In view of foregoing reasons and despite a specific direction issued in W.P.(MD).No. 19265 of 1996, dated 28.01.2004, this Court has no other option, but to set aside the order impugned in this Writ Petition.

8. Accordingly, the Writ Petition is partly allowed. The order of the second respondent, dated 11.03.2011, stands set aside and the matter is remanded back to the State Level Committee concerned to pass appropriate orders strictly in terms of the decision cited in *Kumari Madhuri Patil's* case. Such exercise shall be carried out within a period of eight weeks from the date of receipt of a copy of this order and the decision taken shall



be communicated to the petitioner, forthwith. No costs.  
Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Record)

WEB COPY/True Copy/

Sub Assistant Registrar

ssm

To

- 1.The District Educational Officer  
at Tirunelveli,  
Seranmahadevi,  
Tirunelveli District.
- 2.The District Level Community Certificate,  
Verification and Vigilance Committee,  
Office of the District Collector,  
Tirunelveli District,  
Tirunelveli.
- 3.The Head Master,  
Government Higher Secondary School,  
Panagudi, Tirunelveli District.
- 4.The District Collector,  
Tirunelveli District,  
Tirunelveli.
- 5 The State Level committees,  
for Verification of Community Certificate,  
Chennai - 9

+1cc to Mr.S.Palanivelayutham Advocate Sr.No. 61306

+1cc to Spl.Government Pleader Sr.No. 61234

JAM/08.11.16/GSV-PM/ 4p-8c

W.P (MD) .No.5477 of 2011  
17.10.2016