

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.01.2017

CORAM

THE HONOURABLE MR . JUSTICE N.NOOTY. RAMAMOHANA RAO
AND
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.2000 of 2017
and W.M.P.No.2002 of 2017

A.Elango

[Petitioner]

Vs

1 The Member Secretary/
District Vigilance Committee
District Backward Class and Minority Welfare Officer
Vellore

2 The Chief Educational Officer
Vellore District Vellore

[Respondents]

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for a writ of certiorari to call for the records relating to the impugned proceedings issued by the 1st respondent in Na.Ka. No.4/2831/ 2000 dated 5.1.2017 and quash the same.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.R.Pratap Kumar,
Government Advocate

O R D E R

[Order of the Court was made by
NOOTY RAMAMOHANA RAO.J.]

This writ petition is filed calling in question the correctness of the notice issued on 05.01.2017 requiring the writ petitioner to appear before the Committee on 24.01.2017 at 09.30 a.m. for the purpose of verification of social status claim made by him.

2. Heard Mr.G.Sankaran, learned counsel for the petitioner and Mr.R.Pratap Kumar, learned Government Advocate, who accepts notice on behalf of the respondents.

3.1 The writ petitioner claims to be a native of Periyakolappalur Village, Vandavasi Taluk and he also claims to belong to Nainar community coming under Parkavakulam, which is classified as a Backward class. He appears to have possessed initially B.Sc., B.Ed. Degrees. He also possessed M.Sc. Degree, having obtained the same in 1992. He appears to have applied for community certificate to the Tahsilar, Vandavasi on 10.11.1997 and the Tahsildar had issued him a certificate vouching that he belongs to Backward class. Community certificate No.74/1997 dated 24.12.1997 was accordingly issued to him. Since he has shifted his residence to Vellore, he has also applied for a community certificate from the local Tahsildar's office, who also certified that he belongs to Other Backward Class/Backward Class.

3.2 The writ petitioner was recruited as a B.T. Assistant (Science) by the Teachers Recruitment Board on 06.09.1999. It is the specific claim of the writ petitioner that he has been selected and recruited against the 'General Turn' and that he was not selected against one of the posts reserved for BC/OBC category candidates. It appears that the petitioner was also promoted to the post of Post Graduate Assistant (Physics) in the year 2002. Based upon a complaint made by some third parties, the District Vigilance Committee, Vellore, made some enquiries and thereafter, the Committee so constituted for verifying the certificates of social status claim, has passed orders on 22.08.2002, cancelling the community certificate issued to the writ petitioner.

3.3 As against the said order dated 22.08.2002, the writ petitioner filed W.P.No.41215 of 2002, which was disposed of by this Court on 27.07.2005, by setting aside the order dated 22.08.2002 passed by the District Level Committee, since it did not contain an expert Sociologist, as a member.

3.4 It appears that the Chairman of the Teachers Recruitment Board has addressed the District Collector cum Chairman, District Vigilance Committee, Vellore on 29.08.2003, bringing out the fact that the writ petitioner was selected as a B.T. Assistant against one of the vacancies meant for General Turn (GT) and that he was not selected against one of the vacancies reserved for Backward Classes.

4. Mr.G.Sankaran, learned counsel, therefore, contends that a futile exercise is carried on by the District Vigilance Committee now and that too, after so many years have passed by, from the last such exercise indulged in by it.

5. We are not impressed much by this contention for the reason that the community certificate which the writ petitioner obtained, has been, no doubt subjected to verification and scrutiny on the previous occasion, but, however, that exercise was faulted by this Court for the improper constitution of the Scrutiny Committee, where an expert Sociologist member was not present. This time around that error is sought to be rectified by including an expert member in Sociology to the Committee. While the Committee is headed by the District Collector, it is convened by its Member Secretary, who is the District Welfare Officer for Backward Classes. Therefore, the error, which was pointed out on the previous occasion by this Court in its judgment rendered on 27.07.2005 in W.P.No.41215 of 2002, is apparently rectified. Further, it is, no doubt, true that this Court has rendered its Judgment, more than 10 years back and possibly, the communication sent by the Chairman of the Teachers Recruitment Board to the District Collector cum Chairman of the Vigilance Committee on 29.08.2003 that the writ petitioner was, in fact, selected against the General Turn vacancy as a B.T. Assistant, but not against the vacancy reserved for Backward Classes, may have lulled the Committee into silence all these years, but, such a factor alone cannot be construed as an unsurmountable hurdle for verifying the genuineness of the community certificate, based on which the claim is said to have been made by the writ petitioner. This apart, the writ petitioner, may not have been prevented from the benefits from the claim so made.

6. By passage of time, any social status certificate does not gain currency. It can sustain itself for the intrinsic merit and value contained in the claim and so long as the same is intact and the same certificate is not subjected to repeated enquiries, with a view to securing at least a favourable report that the claim is not a genuine, perhaps, no fault can be found with the verification exercise indulged in, only on the ground of lapse of 10 years, from the previous occasion when it was so done. Passage of time, according to us, could not have caused vast difference or could not have caused grave prejudice to the writ petitioner to establish his claim. If he has suffered any prejudice in the process, it is for him to produce necessary material as to how the delay and lapse on the part of the Committee to verify his claim in quick time, has caused hardship for him to establish his claim. That the committee is bound to consider and deal with it appropriately.

7. Further, if any new or incriminating material has surfaced after the last verification was carried out, perhaps, one cannot completely fault with any such silence maintained in between the last verification and the present round.

8. In such view of the matter, we do not see any principle which would stand in the way of the respondents in verifying the genuineness of the claim made by the writ petitioner. Further, if the writ petitioner has been recruited against the General Turn, completely satisfying all the criteria prescribed for the General Turn candidates, such as age, qualifications or percentage of marks prescribed for General Turn candidates, to be so recruited, perhaps no serious consequences can flow from the enquiry, which is now sought to be conducted, unless he earned a recruitment initially as a B.T. Assistant or promotion as a P.G. Assistant, based wholly due to the claim of reservation.

8. We only hope that the writ petitioner would appear before the Committee latest by 13.02.2017 and produce the necessary evidence/material in support of his claim. The learned Government Advocate is requested to communicate to the District Collector to permit the writ petitioner to appear before the Committee on 13.02.2017 and make his submissions and then, duly considering the quality of objection raised by the writ petitioner, the issue may be adjudicated. It is made clear that no further notice need be issued by the Committee to the writ petitioner for attending the hearing before the committee on 13.02.2017. (underlining is mine)

With this, the writ petition stands disposed of at the admission stage itself. No costs. Connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1 The Member Secretary/
District Vigilance Committee
District Backward Class and Minority Welfare Officer
Vellore
 - 2 The Chief Educational Officer
Vellore District Vellore
- +1 cc to Mr.Sankaran Advocate sr 5358
+1 cc to Government Pleader sr 5934

W.P.No.2000 of 2017

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