

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:24.07.2017

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE Mr. JUSTICE P.D.AUDIKESAVALU

W.P.No.10628 of 2017 and
W.M.P.No.11564 of 2017

- 1 R.Balaji
S/o.P.K.Rajendran Pannavadi Post Kolathur
Via Mettur Taluk Salem District
- 2 R.Srinivasan
S/o.P.K.Rajendran Pannavadi Post Kolathur
Via Mettur Taluk Salem District
- 3 J.Amuthamani
D/o.M.Jayaraman Pannavadi Post Kolathur
Via Mettur Taluk Salem District
- 4 J.Deepa
D/o.M.Jayaraman Pannavadi Post Kolathur
Via Mettur Taluk Salem District
- 5 B.R.Tharun Vhijai
Minor Rep. by its Natural Guardian Mother
J.Deepa Pannavadi Post Kolathur Via Mettur
Taluk Salem District
- 6 R.Gouthamvijai
Minor Rep. by its Natural Guardian Mother
J.Deepa Pannavadi Post Kolathur Via Mettur
Taluk Salem District
- 7 S.Arunkumar
S/o.K.Soundararajan Pannavadi Post
Kolathur Via Mettur Taluk Salem District
- 8 A.Naveneeth Arjun
Minor Rep. by its Natural Guardian Father
S. Arunkumar S/o.K.Soundararajan Pannavadi
Post Kolathur Via Mettur Taluk Salem
District
- 9 D.Saranya
W/o.Arunkumar Pannavadi Post Kolathur Via
Mettur Taluk Salem District

- 10 V.Harini Shree
Minor Rep. by its Natural Guardian Father
V.Vertivel Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 11 B.Rohith Ram
Minor Rep. by its Natural Guardian Father
S.Balamurugan Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 12 B.Sanjit Ram
Minor Rep. by its Natural Guardian Father
S.Balamurugan Boothapandi Pannavadi Post
Kolathur Via Mettur Taluk Salem District
- 13 J.Jamuna
W/o.S..Balamurugan Boothapandi Pannavadi
Post Kolathur Via Mettur Taluk Salem
District
- 14 S.M.Mourishan
Minor Rep. by its Natural Guardian Father
S.Mahendran Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 15 S.M.Indhumugi
Minor Rep. by its Natural Guardian Father
S.Mahdram Boothapandi Pannavadi Post
Kolathur Via Mettur Taluk Salem District
- 16 S.Praveen
S/o.K.Selvaraj Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 17 S.Nithya
S/o.K.Selvaraj Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 18 S.Hema Sree
Minor Rep. by its Natural Guardian Father
R.Selvaraj Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 19 S.Nandha
Minor Rep. by its Natural Guardian Father
R.Selvaraj Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 20 P.Sivakumar
S/o.R.Prakash Pannavadi Post Kolathur Via
Mettur Taluk Salem District

- 21 P.Abinaya
Minor Rep. by its Natural Guardian Father
R.Prakash Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 22 D.Jeevitha
Minor Rep. by its Natural Guardian Father
C.Devarajan Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 23 D.Sneha
Minor Rep. by its Natural Guardian Father
C. Devarajan Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 24 G.Saravanakumar
S/o.Govindarajan Pannavadi Post Kolathur
Via Mettur Taluk Salem District
- 25 S.L.Sucheta
Minor Rep.by its Natural Guardian Father
Saravanakumar Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 26 C.Padma
D/o.O.Chinnasamy Pannavadi Post Kolathur
Via Mettur Taluk Salem District
- 27 C.Tamilselvan
S/o.Chinnasamy Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 28 R.Tharani
Minor Rep. by its Natural Guardian Father
T.N.Raja Pannavadi Post Kolathur Via Mettur
Taluk Salem District
- 29 R.Navaeetha Manikandan
Minor Rep. by its Natural Guardian Father
T.N.Raja Pannavadi Post Kolathur Via Mettur
Taluk Salem District
- 30 I.S.Sanjairaj
Minor Rep. by its Natural Guardian Father
K.Selvaraj Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 31 S.Praveenraj
Minor Rep. by its Natural Guardian Father
K.Selvaraj Pannavadi Post Kolathur Via
Mettur Taluk Salem District

- 32 V.Megana
Minor Rep. by its Natural Guardian Father
G.Venkatraman Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 33 S.P.Nivetha
Minor Rep. by its Natural Guardian Father
G. Senthilkumar Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 34 S.Gopinath
S/o.L.Selvaraj Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 35 S.Thamothiran
S/o.L.Selvaraj Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 36 R.Suganya
D/o.N.Rajendran Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 37 R.Navaneethan
Minor Rep. by its Natural Guardian Father
N. Rajendran Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 38 N.Sridevi
D/o.O.Narasimman Boothapandi Pannavadi
Post Kolathur Via Mettur Taluk Salem
District
- 39 N.Gowrisankar
S/o.O.Narasimman Boothapandi Pannavadi
Post Kolathur Via Mettur Taluk Salem
District
- 40 V.Boomika
Minor Rep. by its Natural Guardian Father
K.Vijayakumar Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 41 V.Suseendran
Minor Rep. by its Natural Guardian Father
K.Vijayakumar Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 42 M.Priyanka
D/o.N.Mahalingam Pannavadi Post Kolathur
Via Mettur Taluk Salem District

- 43 M.Ragul
S/o.N.Mahalingam Pannavadi Post Kolathur
Via Mettur Taluk Salem District
- 44 K.Priyadharshini
D/o.N.Kuppovireddy pannavadi Post Kolathur
Via Mettur Taluk Salem District
- 45 K.Pradeep
Minor rep by Natural Guardian father
N.Kuppovireddy Pannavadi Po Kolathur Via
Mettur Taluk Salem District
- 46 S.Dhanushka
Minor rep by Natural Guardian father
C. Saravanan Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 47 G.Karthikeyan S/o.Gopal
Pannavadi Post Kolathur Via Mettur Taluk
Salem District
- 48 J.V.Rithikaraj
Minor Rep. by its Natural Guardian Mother
J.Vijiya Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 49 J.V.Dhanya
Minor Rep. by its Natural Guardian Mother
J.Vijiya Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 50 P.Sanjay
Minor Rep. by its Natural Guardian Father
N.Punniyamoorthy Pannavadi Post Kolathur
Via Mettur Taluk Salem District
- 51 S.Niranjana
Minor Rep. by its Natural Guardian Father
S.Santhosh Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 52 S.Subhickshana
Minor Rep. by its Natural Guardian Father
S.Santhosh Pannavadi Post Kolathur Via
Mettur Taluk Salem District

- 53 R.Mukesh
Minor Rep. by its Natural Guardian Father
G.Ramalingam Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 54 C.Thangadurai
S/o.R.Chinnappareddy Pannavadi Post
Kolathur Via Mettur Taluk Salem District
- 55 K.Sanjay
Minor Rep. by its Natural Guardian Father
N.Kumar Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 56 K.Harrish
Minor Rep. by its Natural Guardian Father
N.Kumar Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 57 V.Monika
D/o.R.Venugopal Pannavadi Post Kolathur
Via Mettur Taluk Salem District
- 58 V.Deepak
S/o.N.Vijendran Pannavadi Post Kolathur
Via Mettur Taluk Salem District
- 59 P.P.Kaamesh
Minor Rep. by its Natural Guardian Father
N.Punniyamoorthy Pannavadi Post Kolathur
Via Mettur Taluk Salem District
- 60 D.Mythresh
Minor Rep. by its Natural Guardian Father
N.Dhachnamoorthy Pannavadi Post Kolathur
Via Mettur Taluk Salem District
- 61 D.Sriram
Minor Rep. by its Natural Guardian Father
N.Dhachnamoorthy Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 62 G.S.Mohanraj
Minor Rep. by its Natural Guardian Father
N.Gurumoorthy Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 63 G.Varadharajan
S/o.Govindaraj Pannavadi Post Kolathur
Via Mettur Taluk Salem District

- 64 N.Keerthikaa
D/o.B.Nagarajan Pannavadi Post Kolathur
Via Mettur Taluk Salem District
- 65 N.Koushika
D/o.B.Nagarajan Pannavadi Post Kolathur
Via Mettur Taluk Salem District
- 66 L.J.parthasarathy
Minor Rep. by its Natural Guardian Father R.
Lakshmanan Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 67 R.Priya
D/o. N.Raja Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 68 R.Divya
D/o.N.Raja Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 69 N.R.Mahizhan
Minor Rep. by its Natural Guardian Father
N.G.Ramalingam Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 70 P.S.Dharshan
Minor Rep. by its Natural Guardian Father
C.Prabhu Pannavadi Post Kolathur Via Mettur
Taluk Salem District.
- *71 P.S. Mithilesh**
Minor Rep. by its Natural Guardian Father
C.Prabhu Pannavadi Post Kolathur Via
Mettur Taluk Salem District.*
- 72 R.Tamilselvi
D/o.P.K. Rajendran Pannavadi Post Kolathur
Via Mettur Taluk Salem District
- 73 R.Kalaiselvi
D/o.P.K.Rajendran Pannavadi Post Kolathur
Via Mettur Taluk Salem District
- 74 R.Thamaraiselvan
S/o.P.K. Rajendran Pannavadi Post Kolathur
Via Mettur Taluk Salem District

- 75 N.Gobi
S/o. Narasiman Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 76 D.Vasudevan
S/o. Duraisamy Pannavadi Post Kolathur
Via Mettur Taluk Salem District
- 77 S.Kabilashiwaa
Minor Rep. by its Natural Guardian Father
R.Senthilkumar Pannavadi Post Kolathur Via
Mettur Taluk Salem District
- 78 C.Prabhu
S/o. R.Chinnappareddy Boothapandi
Pannavadi Post Kolathur Via Mettur Taluk
Salem District
- 79 R.Boopathi
S/o.O.Rajagopal Boothapandi Pannavadi Post
Kolathur Via Mettur Taluk Salem District
- 80 G.Ashokkumar
S/o.P.Guruvareddy Boothapandi Pannavadi
Post Kolathur Via Mettur Taluk Salem District
- 81 G.Venkatesan
S/o P.Guruvareddy Boothapandi Pannavadi
Post Kolathur Via Mettur Taluk Salem
District
- 82 P.S.Prabakaran
S/o C.Selvaraj Pannavadi Post Kolathur via
Mettur Taluk Salem District.
- 83 R.Jeevanantham
Minor rep by its natural guardian father
S. Ramesh Pannavadi Post Kolathur Via Mettur
Taluk Salem District.
- 84 R.Kishore
Minor rep.by its natural guardian father
S. Ramesh Pannavadi Post Kolathur via Mettur
Taluk Salem District.
- 85 V.Varsha
Minor rep.by its natural guardian father
R.Velmurugan Pannavadi Post Kolathur via
Mettur Taluk Salem District.

- 86 V.Dharshana
Minor rep.by its natural guardian father
R.Velmurugan Pannavadi Post Kolathur via
Mettur Taluk Salem District.
- 87 M.Brinda
Minor rep.by its natural guardian father
D.Mahendran Pannavadi Post Kolathur via
Mettur Taluk Salem District.
- 88 M.Murugan
Minor rep.by its natural guardian father
D.Mahendran Pannavadi Post Kolathur via
Mettur Taluk Salem District.
- 89 V.Navaneetha
D/o N.G.Ramalingam Pannavadi Post Kolathur
via Mettur Taluk Salem District.
- 90 V.Subash
Minor rep.by its natural guardian father
R.Vaitheeswaran Pannavadi Post Kolathur via
Mettur Taluk Salem District.
- 91 S.Gowdham
Minor rep.by its natural guardian father
C.Saravanan Pannavadi Post Kolathur via
Mettur Taluk Salem District.
- 92 S.Prasanth
Minor rep.by its natural guardian father
C.Saravanan Pannavadi Post Kolathur via
Mettur Taluk Salem District.
- 93 C.G.Jawahar
Minor rep.by its natural guardian father
C.Govindaraju Pannavadi Post Kolathur via
Mettur Taluk Salem District.
- 94 G.Yashica
Minor rep.by its natural guardian father
C. Govindaraju Pannavadi Post Kolathur via
Mettur Taluk Salem District.
- 95 R.Sanjay
S/o B.Rajendran Kolathur Post Mettur Taluk
Salem District.

96 M.Mithraw
Minor rep.by its natural guardian father
N.Mohankumar Kattukottai Pannavadi Post
Kolathur via Mettur Taluk Salem District.

97 M.Thangam
Minor rep.by its natural guardian father
N.Mohankumar Kattukottai Pannavadi Post
Kolathur via Mettur Taluk Salem District.

... Petitioners

Vs

1 Government of Tamilnadu
Rep.by its Secretary to Government
Revenue Department,
Fort. St. George Chennai-9

2 The District Collector
Salem District, Salem.

3 The Sub Collector/ Revenue
Divisional Officer, Mettur,
Salem District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records from the third respondent in his proceeding Na.Ka.No.244/ 2016/D dated 06.01.2017 quash the same and issue a consequential directions to the third Respondent to issue the Community Certificate to all the petitioners as Hindu Konda Reddi (Scheduled Tribes) within a stipulated time frame as fixed by the Honble Court.

For Petitioners : Mr.V.Stalin

For Respondents: Mr.K.Venkataramani
Additional Advocate General
For Mr.M.Elumalai
Government Advocate

O R D E R

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

Heard both sides.

2.The Petitioners have preferred the instant Writ Petition praying for passing of an order by this Court in calling for the records from the 3rd Respondent/Sub Collector, Revenue Divisional

Officer, Mettur, Salem District in Proceeding No.Na.Ka.No.244/2016/D dated 06.01.2017 and to quash the same. Further, they had sought for passing of a direction by this Court to the 3rd Respondent to issue a Community Certificate to them as 'Hindu Konda Reddi (Scheduled Tribes)' within a stipulated time frame to be decided by this Court.

3. According to the Petitioners, they do belong to Hindu Konda Reddi (Scheduled Tribes) Community and they are living at Pannavadi Village, Mettur Taluk, Salem District. Their relatives also belong to 'Hindu Konda Reddi (Scheduled Tribes) Community'. Therefore, they seek for issuance of Community Certificate for the purpose of pursuing Higher Education and in respect of other purposes also.

4. The main grievance of the Petitioners is that the Petitioners although they had addressed repeated representations to the 3rd Respondent/Sub Collector/Revenue Divisional Officer, Mettur, Salem District, it proved futile. Therefore, they were forced to give another representation dated 14.09.2015 before the 3rd Respondent/Sub Collector/Revenue Divisional Officer, Mettur, Salem District seeking issuance of Community Certificate as 'Hindu Konda Reddi (ST)'. But, nothing tangible has so far been done by the 3rd Respondent in the subject matter in issue.

5. The Learned Counsel for the Petitioners strenuously projects an argument that the Petitioners father, mother, grandfather and maternal uncle were all issued with the certificate certifying that they do belong to 'Hindu Konda Reddi Community (ST)' and their children were entitled to receive the same Community Certificate.

6. In this connection, the Learned Counsel for the Petitioner relies on the decision of the Hon'ble Supreme Court in State of Bihar and others V. Sumit Anand, reported in 2005 12 SCC 248, whereby and whereunder, it is observed as follows:

"We have pursued the findings recorded by the Division Bench as well as the single judge of the High Court. In view of the fact that the respondent's father and grandfather, mother and maternal uncle had all been granted the certificate certifying that they belong to the "Gond" community, we see no reason to come to a conclusion other than the one arrived at by the High Court to the effect that the respondent was entitled to issuance of the caste certificate."

7.The gravamen of attack made on the side of the Petitioners in this Writ Petition is that similarly placed persons like them had approached the 3rd Respondent/Sub Collector/Revenue Divisional Officer, Mettur, Salem District for issuance of Community Certificate to them, but it was refused by the 3rd Respondent without application of mind. Subsequently, each and every person filed a separate Writ Petition before this Court and this Court gave a specific direction to the 3rd Respondent. Thereupon, the Community Certificate was issued by the 3rd Respondent to the Petitioners therein.

8.The Learned Counsel for the Petitioners referred to various Orders passed by this Court in directing the 3rd Respondent therein to issue Community Certificate to the following persons and the same runs as under:

Sl.No.	Name	W.P.Nos.	Order Dated
1	C.V.Maniyannan	14321/1995	25.07.1995
2	D.Vignesan	14160/2004	18.05.2004
3	Niruban Chakravarthy	1959/2004	27.02.2004
4	R.Gayathiri	16503/2004	18.05.2004
5	C.V.Kalaiyannan	26974/2009	07.04.2010
6	S.Thaarasanmathi	36600/2010	14.07.2010
7	S.Ashwin	36601/2006	14.07.2010
8	K.Harishankar	18256/2011	23.12.2011
9	K.Hariprasadh	18257/2011	23.12.2011
10	K.Suganya	18255/2011	23.12.2011
11	G.Bharanidharan	21093/2011	06.08.2013

The aforesaid 11 persons were issued with the Community Certificate as 'Hindu Konda Reddi (ST) Certificate'.

9.The Learned Counsel for the Petitioners refers to the order dated 06.08.2013 in W.P.No.21093 of 2011 wherein it was observed that if father, mother, grandfather and maternal uncle had granted the certificate certifying that they belong to a Hindu Konda Reddi Community (ST), then, their children are also entitled to receive the same community certificate. As such, it is the plea of the Petitioners that they submitted necessary documents before the 3rd Respondent/ Sub Collector/Revenue Divisional Officer, Mettur, Salem District on 14.09.2015, however, nothing positive turned out. Therefore, the Petitioners children were not in a position to prepare for higher studies owing to the non production of the Community Certificate and hence, they filed W.P.No.39493 of 2015 before this Court seeking direction to issue the Community Certificate to them as they belong to Hindu Konda Reddi (Scheduled Tribes) and based on

their representation dated 14.09.2015 and in the light of the similar order passed by this Court in W.P.No.21093 of 2011 dated 06.08.2013, the said Writ Petition was ordered by this Court by virtue of the order dated 04.01.2016 in W.P.No.39493 of 2015 and the directions run as under:

"2.The writ petition has been filed by the petitioners invoking Article 226 of the Constitution of India, seeking an order in the nature of Mandamus directing the respondents to issue the Community Certificate to the petitioners stating that they are belonging to Hindu Konda Reddi (Scheduled Tribes).

3.Mr.N.G.R.Prasad, learned Senior Counsel appearing for the petitioners submitted that the petitioners herein have submitted separate applications on 14.09.2015 to the third respondent seeking issuance of Community Certificate. In support of his contention, the learned senior counsel drew the attention of this Court to the copy of the representation dated 14.09.2015 to the third respondent seeking issuance of Community Certificate. In support of his contention, the learned Senior Counsel drew the attention of this Court to the copy of the representation dated 14.09.2015 and postal receipts relating to their representation. In such circumstances, we are of the view that the scope of the petition is limited, since they need a direction to the respondents to consider their representation dated 14.09.2015 and pass appropriate orders, according to law.

4.Having considered the submissions made by both sides, we find it just and reasonable to direct the third respondent/ the Revenue Divisional Officer, Mettur, Salem District, to consider the representation made by the petitioners herein and pass appropriate orders on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order. Accordingly, the writ petition is disposed of. No order as to costs."

10.The Learned Counsel for the Petitioners draws the attention of this Court that by virtue of the directions issued in W.P.No.39493 of 2015 dated 04.01.2016 as stated supra to the

3rd Respondent, a separate representation with the copy of the aforesaid order in W.P.No.39493 of 2015 dated 04.01.2016 was made and even though this Court on 04.01.2016 in the aforesaid Writ Petition issued a positive direction to the Petitioners on 04.01.2016, the grievance of the Petitioners is that the 3rd Respondent had not conducted any enquiry and had not passed orders in the subject matter in issue.

11.In short, the Learned Counsel for the Petitioners contends that the inaction on the part of the 3rd Respondent/Sub Collector/ Revenue Divisional Officer, Mettur, Salem District is an arbitrary, illegal and unreasonable one. Therefore, the Petitioners had issued a legal notice dated 01.08.2016 to the 3rd Respondent and thereafter, nothing had transpired. Therefore, a Contempt Petition No.2273 of 2016 filed by Petitioners before this Court wherein a notice was ordered on 25.11.2016 and ultimately, the same is pending.

12.The Learned Counsel for the Petitioners proceeds to state that during the pendency of Contempt Petition No.2273 of 2016, the 3rd Respondent without conducting any basic enquiry or without adhering to this Court's Order passed in W.P.No.39493 of 2015 dated 04.01.2016, rejected the Petitioner's claim in the present impugned order passed by the 3rd Respondent in Na.Ka.No.244/2016/D dated 06.01.2017.

13.The Learned Counsel for the Petitioners submits that as against the rejection order of the 3rd Respondent dated 06.01.2017, in negating the claim of the Petitioners in regard to the issuance of Community Certificate [although there is an Appeal remedy before the Appellate Authority/2nd Respondent as against the impugned order of the 3rd Respondent dated 06.01.2017], inasmuch as there has been a negation of 'Principles of Natural Justice' and non application of mind, the Petitioners have filed the instant Writ Petition, since they have no other alternative, speedy and efficacious remedy.

14.At this juncture, it is pertinent for this Court to make a significant mention that in G.O.(Ms).No.235 Revenue [RA3(2)] Department dated 26.06.2015, the Government of Tamilnadu, based on the orders passed by the Madurai Division Bench of this Court in W.P.(MD) No. 1355 of 2015 dated 05.02.2015 between D. Thirupathi V. The District Collector, Tirunelveli District, Tirunelveli and another, had constituted an Appellate Authority for an 'Appeal' remedy in regard to the issuance of Community Certificate, which runs as under:

Sl. No.	Community	Issuing Authority	Appellate Authority	Redressal of Grievances
1	Backward Classes / Most Backward Classes / Denotified Communities	Zonal Deputy Tahsildar	Tahsildar	District Collector
2	Scheduled Castes	Tahsildar	Revenue Divisional Officer	District Collector
3	Scheduled Tribes	Revenue Divisional Officer	District Collector	District Collector & Chairman District Level Vigilance Committee

15. It also comes to light that the Government of Tamilnadu had passed G.O.(Ms).No.147, Revenue [RA-3(2)] Department, dated 17.03.2016 (As regards redressal of grievances of Scheduled Tribes), whereby and whereunder, after careful consideration and examining the subject matter in issue had issued an amendment to G.O.(Ms).No.235 Revenue [RA3(2)] Department dated 26.06.2015 to the Paragraph No.4 in the Tabular Column, for Serial No.3 and the entries relating thereto, by substituting the same as under:

Sl .	Community	Issuing Authority	Appellate Authority	Redressal of Grievances
"3	Scheduled Tribes	Revenue Divisional Officer.	District Collector	State Level Scrutiny Committee"

16. It is to be noted that the object of Article 226 of the Constitution of India is to provide a quick and an inexpensive remedy to the aggrieved parties. Therefore, it would be incorrect to incorporate all the proceedings of a suit into a proceeding under Article 226 of the Constitution of India as per decision of the Hon'ble Supreme Court in Babubhai V. Nandal reported in AIR 1974 SC 2105.

17. It is to be borne in mind that as 'Writ Proceeding' is summary in nature, 'Disputed questions' of fact cannot be decided in Writ Jurisdiction as per decision of the Hon'ble Supreme Court in Sumedha Nagpal V. State of Delhi, (2000) 9 SCC 745. Undoubtedly, the power conferred upon the Hon'ble Supreme Court and the High Court under Articles 32 and 226 of the Constitution

of India is 'plenary power' and such power is not at all an incomplete power, nor fettered by any legal restraint. Although the power of 'Judicial Review' is at the hands of High Court under Article 226 of the Constitution, notwithstanding the fact that the Constitution of India does not impose any limitation upon the aforesaid power, the Courts themselves have evolved certain self imposed limitations or restraints in regard to the exercise of this extraordinary and unlimited discretionary power, as a matter of prudence and policy. In short, in Law, the whole field of Article 226 of the Constitution is purely a discretionary one.

18. Coming to the aspect of an 'Executive Power' of the State, it is to be pointed out that the same is coextensive with that of the State Legislature. The power of the State Government to issue executive instructions is confined to filling up of the gaps or covering the area which otherwise is not covered by the existing Rules, as per decision Union of India V. Central Electrical & Mechanical Engineering Service (CE & MES) Group A (Direct Recruits) Association reported in CPWD 2008 1 SCC at Page 354. It cannot be forgotten that the executive instructions which are given by the State exercising its power under Article 162 of the Constitution of India cannot circumvent a statutory provision. In fact, Article 162 of the Constitution does not enjoin the State Government to pass executive Orders which are contrary to Law, which was already made on the subject, by the State, in as much as it would amount to rewriting Art. 162 of the Constitution of India.

19. That apart, in order that the Executive instructions have the force of statutory Rules, it is to be exhibited that they were issued either under the authority showered under the State Government by some statute or under some provision of the Constitution, as per decision of Hon'ble Supreme Court in G.J.Fernandez V. State of Mysore reported in AIR 1967 SC Page 1753.

20. In short, Article 162 of the Constitution requires that where the State has power to make Laws, it can issue executive instruction as per decision Kamala Godera V. State of Rajasthan reported in AIR 2000 Rajasthan 130. Although the State Legislature has the power to make a Law relating to a subject, the executive action by the appropriate Government is not rendered invalid just because there is no Legislation to support such action, as per decision of the Hon'ble Supreme Court in Naraindas V. State of Madhya Pradesh reported in AIR 1974 SC Page 1232.

21. At this juncture, this Court aptly recalls and recollects the decision of the Hon'ble Supreme Court in *Madhukar Sadbha Shivarkar V. State of Maharashtra and Others* (2015) 6 Supreme Court Cases 557 at Special Page Nos. 559 and 560 wherein it is held as follows:

"In the backdrop of the Judgment passed in the criminal cases which have attained finality before the Supreme Court, the State Government, after examining the representations given by the landowners in these cases with reference to the relevant land records of the landholders of the villages, has rightly exercised its statutory power by appointing the Sub-Divisional Officer as an enquiry officer at the first instance and later on Deputy Commissioner of Pune was appointed to enquire into the matter which is in the large public interest. (Para 26)

The order is passed by the State Government only to enquire into the landholding records with a view to find out as to whether original land revenue records have been destroyed and fabricated to substantiate their unjustifiable claim by paying fraud upon the Tahsildar and appellate authorities to obtain the orders unlawfully in their favour by showing that there is no surplus land with the Company and its shareholders as the valid sub-leases are made and they are accepted by them in the proceedings under Section 21 of the Act, on the basis of the alleged false declarations filed by the shareholders and sub-lessees under Section 6 of the Act. The allegation of fraud in relation to getting the landholdings of the villages by the declarants on the alleged ground of destroying original revenue records and fabricating revenue records to show that there are 384 sub-leases of the land involved in the proceedings to retain the surplus land illegally as alleged, to the extent of more than 3000 acres of land and the orders are obtained unlawfully by the declarants in the land ceiling limits will be nullity in the eye of the law through such orders have attained finality, if it is found in the enquiry by the enquiry officer that they are tainted with fraud, the same

can be interfered with by the State Government and its officers to pass appropriate orders. Fraud unravels everything and therefore, the question of limitation under the provisions to exercise power by the State Government does not arise at all. The land owners are also aggrieved parties to agitate their rights to get the orders which are obtained by the declarants as they are vitiated in law on account of nullity is the tenable submission and the same is well founded and acceptable to justify the impugned judgment and order of the High Court.

(Para 27)

The legal submissions made on behalf of the appellants that the State Government has no power either under Section 45(2) or under Section 14(4) of the 1961 to appoint an enquiry officer to enquire into the landholdings of the villages referred to therein are untenable contentions of the appellants which have been rightly rebutted by urging an alternative legal plea that the power exercised by the State Government to pass the orders impugned in the writ petitions is traceable to its executive power under Article 162 of the Constitution of India. This is the most tenable submission, having regard to the magnitude of the alleged fraud in relation to the vast extent of the landholding obtained by the declarants by giving false declarations with a view to come out from the clutches of the land ceiling provisions of the Act, which is the prima facie view taken by the State Government and the same cannot be found fault with by the Supreme Court in these proceedings at this stage. (Paras 28 and 32)

Also, in the aforesaid decision, at Paragraph No.32 at Page No.572, among other things, it is observed as follows:

".....In our considered view, the orders impugned in the writ petitions which are affirmed by the High Court, are perfectly legal and valid and therefore, the same do not warrant interference by this Court in exercise of power of this Court under Article 136 of the Constitution, but on the other hand, the aforesaid orders of the State Government can also be traceable to execute

power of the State Government under Article 162 of the Constitution of India having regard to the magnitude of the alleged fraud in relation to the vast extent of the landholding obtained by the declarants by giving false declarations with a view to come out from the clutches of the land ceiling provisions of the Act, which is the prima facie view taken by the State Government and the same cannot be found fault with by this Court in these proceedings at this stage...."

22. When a Government Order or a Statute provides for an adequate, effective, viable and efficacious alternative remedy and if such an alternative remedy is not cumbersome, then, in that event, it is open to the Petitioner to avail such remedy / machinery constituted under the said Government Order or under the Act, so that, the purport and intent of the Government in providing a certain forum is not whittled down in any manner.

23. Indeed, the remedy of preferring an Appeal enjoined in the amendment G.O.(Ms).No.147 Revenue [RA-3(2)] Department dated 17.03.2016 was brought by the Government of Tamil Nadu based on the observations of the Hon'ble Division Bench of this Court in W.P.(MD) No.1355 of 2015 dated 05.02.2015 to the effect that for all the caste certificate cases which naturally require a factual adjudication, at least one appeal remedy for 'Scheduled Caste', 'Scheduled Tribes' and 'Backward Class' should be provided, which may be in the form of scrutiny by the District Level Vigilance Committee etc. Moreover, in W.P.(MD).No.6340 of 2015 [between R.Raja V. The Revenue Divisional Officer, Madurai, Madurai District], the Hon'ble Division Bench of this Court on 30.06.2015 had permitted the Petitioner therein to prefer an Appeal before the District Collector, Madurai, within ten days from the date of receipt of the order [based on the Government Order].

24. Furthermore, the action of the Government of Tamil Nadu in introducing an 'Appeal' remedy before the District Collector as per G.O.(Ms).No.147 Revenue [RA-3(2)] Department dated 17.03.2016 (by way of amendment to G.O.(Ms).No.235 Revenue [RA3 (2)] Department dated 26.06.2015) does not suffer from any vice or material irregularities and patent illegalities in the eye of Law. Moreover, two Orders of the State Government are in the 'Interest of Public at Large', in the considered opinion of this Court.

25. It is to be relevantly pointed out that a Court of Law has an inherent power to fix a reasonable specified time for performing an act [in the absence of any procedural or codified statute] with a view to secure the ends of Justice or to prevent

an abuse of process of Court. However, while determining the time limit, a Court of Law is to act with utmost care and circumspection and is to resort to a prudent course of action, by exercising its thinking judicial discretion and in short, is not to act in an arbitrary, capricious, cavalier and whimsical manner.

26. Be that as it may, in view of the fact that the present Writ Petition viz., W.P.No.10628 of 2017 is filed by the Petitioners assailing the Impugned Order of the 3rd Respondent/Sub Collector/Revenue Divisional Officer, Mettur, Salem District, dated 06.01.2017 rejecting their requests for issuance of Community Certificate to them and also this Court taking note of the tenor and spirit of the G.O.(Ms).No.235 Revenue [RA3(2)] Department dated 26.06.2015 and also looking into the contents of G.O.(Ms).No.147 Revenue [RA-3(2)] Department dated 17.03.2016, is of the considered view that the amended G.O.(Ms).No.147 Revenue [RA-3(2)] Department dated 17.03.2016 issued by the Secretary to Government of Tamil Nadu provides for an 'Appeal' remedy to the District Collector (as an Appellate Authority) and thereafter, to the State Level Scrutiny Committee (For Redressal of Grievances) and therefore, in all Fairness, Equity and Fair Play, this Court directs the Petitioners to prefer an Appeal before the District Collector, Salem as against the impugned order of the 3rd Respondent dated 06.01.2017 within a period of two weeks from the date of receipt of copy of this Order. Liberty is granted to the Petitioners to raise all factual and legal pleas by enclosing necessary documents to support their case before the Appellate Authority / District Collector, Salem. In such event of the Petitioners preferring an Appeal, (of course, well within the time adumbrated by this Court), it cannot be gainsaid that the Appellate Authority, viz., the District Collector, Salem is to provide an adequate opportunity of hearing to the Petitioners by adhering to the 'Principles of Natural Justice' in true letter and spirit.

27. That apart, in case, the Petitioners seek time for filing of additional documents or to lead oral/documentary evidence, then, in that event, the Appellate Authority, viz., the District Collector, Salem shall provide enough opportunity to the Petitioners by keeping in mind the 'Principles of Natural Justice'. The District Collector, Salem/ Appellate Authority, is directed to pass necessary orders on the 'Appeal', as expeditiously as possible, in an Unbiased, Free, Just, Fair, impartial and dispassionate manner, of course, in the manner known to Law and in accordance with Law, in any event, not later than six weeks thereafter. Soon after disposing of the Appeal within the time specified by this Court, the District Collector, Salem (Appellate Authority) is also directed to send a

compliance report to the Registrar (Judicial) of this Court in regard to the orders so passed.

28. Before parting with this case, this Court makes a relevant mention that it is high time for the Government of Tamil Nadu to give an anxious consideration in respect of enacting a complete and comprehensive Law in regard to issuance and verification of Community Certificates of Scheduled Caste and Scheduled Tribes and other Backward Classes quite in tune with the guidelines / direction issued in the Hon'ble Supreme Court decision Kumari Madhuri Patil & Another V. Additional Commissioner Tribal Development, Thane & Others reported in AIR 1995 SC 94 and the modifications made in the later Judgments of the Hon'ble Supreme Court of India on the subject, which governs the field. To put it succinctly, the neighbouring states like Kerala, Andhrapradesh and Maharashtra had already enacted necessary legislations for issuance and verifications of the Community Certificates of Scheduled Caste and Scheduled Tribe and other Backward Classes and the same are in live force. This Court fervently opines that if the Government of Tamil Nadu enacts a codified Law pertaining to the procedure for issuance and verification of Community Certificate of Scheduled Caste and Scheduled Tribe and Other Backward Classes in the State, then, there is ample scope for wiping out/erasing out 'Bogus/Fictitious Community Certificates' obtained by the concerned persons, to secure the benefits in an unlawful manner.

29. With the aforesaid observations the present Writ Petition stands disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CO)

dt. 09/08/2017

corrected order to be issued

Sd/-

Sub Assistant Registrar

dt.22.08.2017

//True Copy//

Sub Assistant Registrar

Sgl

To

1 The Secretary to Government
Government of Tamilnadu
Revenue Department,
Fort. St. George Chennai-9

2 The District Collector
Salem District, Salem.

3 The Sub Collector/ Revenue
Divisional Officer, Mettur,
Salem District.

4 The Registrar (Judicial),
High Court, Madras.
(For information and
necessary follow up action)

5. The Registrar (Judicial)
High Court, Madras.

+ 2 ccs to Mr. Roa & Reddy, Advocate Sr.52158
+ 1 c to Government Pleader Sr.52769

+

To be substituted
to the order already
despatched on
09.08.2017

W.P.No.10628 of 2017

LRS (CO)
Eu 09.08.17
EU 22.08.2017

सत्यमेव जयते

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