

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.Nos.1369 and 14780 of 2015
and

MP Nos.1 & 1 of 2015

P.Mahendran
WPs. Petitioners in both

-Vs-

- 1.The State Level Scrutiny Committee,
rep. By its Chairman,
Secretariat, Chennai-600 009.
2. The Fertilisers and Chemicals Travancore
Limited rep. By the Chief Manager,
(HR), FEDO Building,
Udyogmandal,
Kochi 683 501, Kerala Respondents 1 & 2 in WP.1369/2015

The Fertilisers and Chemicals Travancore
Limited rep. By the Chairman & Mg directot
Corporate Office,
Udyogmandal, Kochi 683 501,
Kerala. Respondent in
WP.14780/2015

Prayer in both WPs:- Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to proceedings No.23201/CV-4/2009-17 dated 31.12.2014 on the file of first respondent in WP.NO.1369 of 2015 and proceedings No.CMD-CO-161 dated 31.03.2015 on the file of respondent in WP.14780 of 2015 and quash the order passed therein.

For Petitioner
in both WPs. : Mr.AR.L.Sundaresan
Senior Counsel
for M/s.S.Suresh Kumar

For Respondents
in WP.1369/2015 : Mr.S.N.Parthasarathy
Government Advocate
For R1
Mr.M.Vijayan

for M/s.King &

Partridge

for R2

For Respondent

in WP.14780/2015

:

Mr.M.Vijayan

for

M/s.King

&

Partridge

COMMON ORDER

[Order of the Court was made by C.T.SELVAM, J.]

These writ petitions have been filed seeking to call for the records relating to proceedings No.23201/CV-4/2009-17 dated 31.12.2014 on the file of first respondent in WP.NO.1369 of 2015 and proceedings No.CMD-CO-161 dated 31.03.2015 on the file of respondent in WP.14780 of 2015 and quash the same.

2. Petitioner belongs to Scheduled Tribe Community and he had obtained community certificate on 05.06.1976 from the Tahsildar, Sangagiri Taluk. Petitioner was selected and appointed as Depo Attender in Second respondent-Company in WP.1369 of 2015, which is also the respondent in WP.14780 of 2015, at Cuddalore, Salem Region under the quota reserved for Scheduled Tribes and presently, he is working as Sr.Regional Manager. While the petitioner made a request to obtain Community Certificate for his daughter, the same was denied and hence he has filed WP. No.12838 of 2011 dated 29.06.2011, wherein the RDO was directed to issue Community Certificate to his daughter. In the meanwhile, the petitioner's Community Certificate was cancelled by the State Level Scrutiny Committee, against which, petitioner filed WP No.1369 of 2015. Further, the State Level Scrutiny Committee has not considered the fact that the petitioner's own sister Ms.S.P.Sakthi Devi has been declared as belonging to Scheduled Tribe community by the Division Bench of this Court in WP Nos.1235 & 1236 of 1983 and the order of cancellation dated 31.12.2014 was stayed by the Division Bench of this Court. Even though the order of cancellation was stayed by this Court, the petitioner's employer passed an order of termination on 31.03.2015 against the petitioner. Hence, petitioner has filed WP No.14780 of 2015.

3. A perusal of the impugned orders reveals that there is no dispute of the petitioner being the brother of one Ms.S.P.Sakthi Devi. The said S.P.Sakthi Devi has obtained Community Certificate informing her as belonging to the Konda Reddy community, pursuant to the order of this Court passed in WP.Nos.1235 & 1236 of 1983 on 01.08.1984. We may reproduce the reasons informed by this Court in passing an order in

favour of the sisiter of the petitioner:-

"10. As for the petitioner, she filed not only a certificate issued by a Deputy Tahsildar but also by the 18th Metropolitan Magistrate, Madras. Her S.S.L.C. Certificate states that she belongs to Scheduled Tribe. The Headmaster of Government High School, Sinnappampatti has certified that she belongs to India-Hindu-Konda Reddy. The sale deed dated 30.12.1926 in favour of her grand-father mentioning therein the words "bfhz;l bul;o gaph;" was produced. This was executed on a stamp paper of that year. It was not registered. Several persons examined by respondents 2 and 3 have stated that her father is a Konda Reddy. The Collector of Ramnad in his circular, taking note of the attitude of the subordinate officers being reluctant to issue community certificates in respect of Konda Reddy Community, had stated that even if no documentary evidence is available, sworn-affidavit by the person/parent/guardian in stamp paper with two respectable persons stating about community may be obtained. Certifying authority can make enquiry and verify with villagers concerned and the community people before issuing the certificate. Now in this case, several persons have supported the claim of the petitioner. In spite of such materials existing, the first respondent had relied upon the allegations made in the petition filed by K.M.Raju, the paternal-uncle of the petitioner, who had himself stated that between himself and the father of the petitioner, due to partition dispute, they are not on talking terms. The other complainant is P.Radhakrishnan, who is the son of the petitioner's aunt. Except the oral claims made by them, they had not produced any contra documentary evidence to dislodge the reliance placed by the petitioner on the basis of ancient documents etc. The Tahsildar, Sankari-the third respondent in his report dated 10.12.1981 had stated that the villagers have given sworn statements and since the sale deed of 1926 specifically refers to Konda Reddy, the petitioner belongs to the said caste. The second respondent-Sub Collector, who is an I.A.S. Officer, after considering all details not only of the contents of documents, but also the claims made by all deponents, had come to the conclusion that there is overwhelming evidence in support of the claim of the petitioner. In spite such materials and reports existing, the first respondent who had already issued a circular that Konda Reddy Community is non-existent in Salem District, had chosen to rely on oral claims made by two complainants, who are close relations of the petitioner and who are admittedly inimical towards her and there being total absence of consideration of the contents of the reports submitted by respondents 2 and 3 and the materials produced by the

petitioner; the impugned communication of the first respondent dated 1-12-1982 is illegal as the conclusion arrived at therein is obviously perverse. As pointed out by the Sub-Collector, when overwhelming evidence exists in support of the claim of the petitioner, it is fruitless to remit the matter for passing fresh orders, as claimed by the counsel for the first respondent. The Certificate issued by the 18th Metropolitan Magistrate, Madras being a competent authority to issue such a certificate and it having not yet been cancelled and the petitioner having satisfactorily established that she belongs to Konda Reddy Community, there is no warrant for any further enquiry to be held. But for the illegal and invalid communication of the first respondent, the fourth respondent would not have issued the impugned showcause notice. Now that it is held that the petitioner is a Konda Reddy and the certificate of 18th Metropolitan Magistrate being a valid certificate, the fourth respondent cannot further proceed against the petitioner as if she had produced a false certificate. Hence, it is held that:

1. A Caste/Community Certificate issued by an empowered public authority under seal continues to be a valid document till it is cancelled by the said authority or by his superior authority.
2. Their contents are to be treated as correct and every public authority, undertakings, bodies, institutions etc., which are bound by instructions relating to such certificates are bound to act upon them, so long as they are not cancelled.
3. In no disciplinary proceeding, their genuineness or correctness of their contents can be gone into. It is open to the department or employer or organisation, to ask the issuing authority or District Collector, as the case may be, to verify whether the certificate as issued could be still valid, on materials which have since come to their knowledge. They can appear in the verification enquiry and place the materials.
4. If the certificate is cancelled, then disciplinary proceedings can be initiated for having furnished false information.
5. Appointing authorities have the right to verify the genuineness of the certificates by approaching the District Magistrate-Collector of the District or such other constituted authority, and once the report is received that the certificate is genuine, thereafter the certificate-holder cannot be further harassed to prove his caste/community in any other manner.

6. In causing verification, the Collector is bound to follow the procedure laid down in Letter dated 7-7-1983 of Government of Tamil Nadu.

7. In view of what is stated in Chapter XIX of Brochure on Reservation for Scheduled Castes and Scheduled Tribes in Services, 6th Edition (1982), the instructions issued by the Central Government from time to time relating to Scheduled Castes and Scheduled Tribes, pertaining to issue of caste certificates are binding upon public sector undertakings, statutory and semi-government bodies and voluntary agencies receiving grants-in-aid from the Central Government, as provided therein."

4. Once there is no dispute that the petitioner is brother of Ms.S.P.Sakthi Devi and Community Certificate has also been issued to her as belonging to Konda Reddy community, similar relief cannot be denied to the petitioner. Accordingly, the impugned proceedings of first respondent in WP.No.1369 of 2015 are found erroneous.

5. These writ petitions are allowed and impugned proceedings of first respondent in proceedings No.23201/CV-4/2009-17 dated 31.12.2014 and proceedings No.CMD-CO-161 dated 31.03.2015 shall stand quashed. As a consequence, there shall be a direction to the respondent in WP.No.14785 of 2015 to effect payment of retirement benefits of the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

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-sd/-

Assistant Registrar

True Copy

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Sub-Assistant Registrar

To

1. The Principal Secretary to Government,
State Level Scrutiny Committee/
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai-600 009.

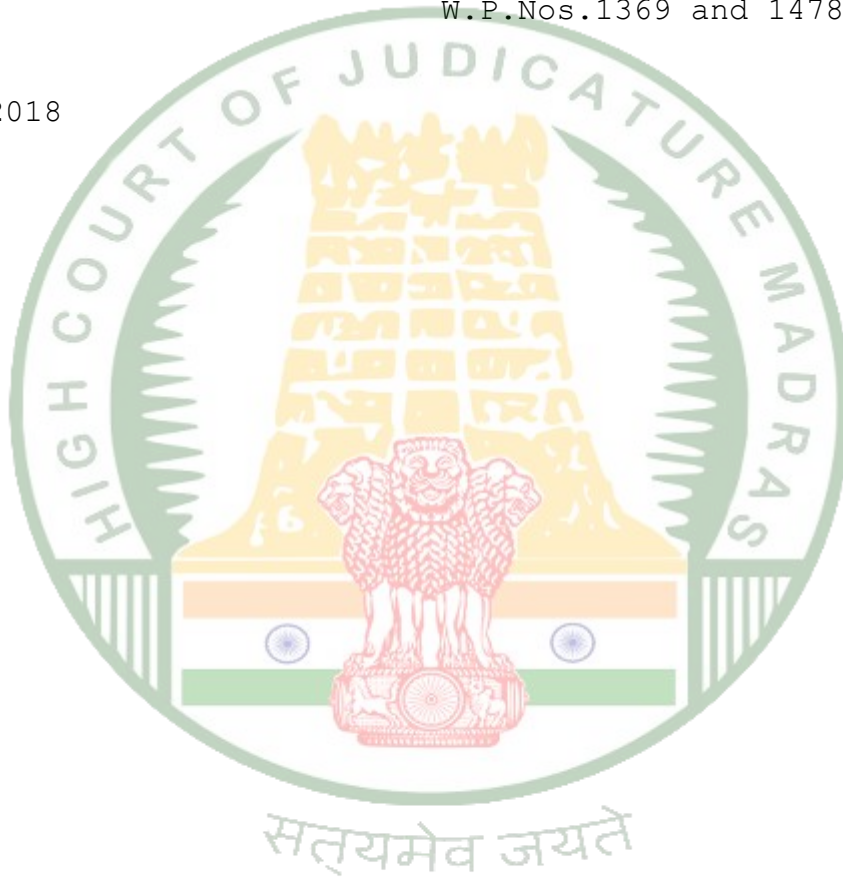
+ 2 C.C. to MR.M.Suresh Kumar Advocate SR.NO.87748 & 87749/17

+2 C.C. to M/S.King & Partridge, Advocate SR.NO.87995/17

+1 C.C. to Govt.Pleader SR.NO.77935/17

W.P.Nos.1369 and 14780 of 2015

VS 30.01.2018



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