

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.06.2017
CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
And
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.14614 of 2015

Neyveli Lignite Corporation Limited,
Rep. by it's the Chairman cum Managing Director,
Neyveli - 607 801. ... Petitioner

Vs.

1.S.Pasupathi

2.The Chairman
State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingnar Maligai,
Secretariat,
Chennai - 600 009. ... Respondents

Prayer:

Writ petition filed under Article 226 of Constitution of India praying Writ of Certiorari calling for the records relating to the issue of the proceeding No.3301/ADW5(1)/2011-18, dated 30.07.2014, issued by the 2nd Respondent-Committee and to quash the same.

For Petitioner : Mr.N.Nithianandam

For Respondents: Ms.G.Sumitra

for M/s.W.M.Abdul Majeed for R1

Mr.K.Dhananjayan for R2

Additional Government Pleader

O R D E R

(Order of the Court was made by M.DHANDAPANI,J.)

The writ petition has been filed by the petitioner seeking issuance of Certiorari calling for the records relating to the issue of the proceeding No.3301/ADW5(1)/2011-18, dated 30.07.2014, issued by the second Respondent-Committee and to quash the same.

2.The facts of the case are as follows: The petitioner was appointed as Wireless - cum - Communication Operator (Trainee) in the Neyveli Lignite Corporation under the Schedule Tribe quota. Thereafter, the employer suspected the genuineness of the Community Certificate and took disciplinary action. Thereafter, the first respondent started litigation with regard to the community status. There are several writ petitions in between the petitioner and the respondents. However, on further enquiry with the Head Master, Government High School, Kanji, Thiruvannamalai District in 1998, where the first respondent last studied, it was confirmed that he belongs to 'Vanniar' a Most Backward Community and does not belong to 'Hindu - Irular' Community.

3.Thereafter, the matter was referred to the District Vigilance Committee and pursuant to the order dated 10.08.2005, it was transferred to the file of the State Level Caste Scrutiny Committee and after various rounds of litigations, pursuant to the order dated 08.07.2008 made in W.P.No.16041 of 2008, the matter was transferred to the State Level Scrutiny Committee. Thereafter, after enquiry and on verification of the School records and Counter Foil of Transfer Certificate, the State Level Scrutiny Committee arrived at a conclusion that the first respondent does not belong to the 'Hindu - Irular' Community. Accordingly, the status of the first respondent's community was also cancelled, against which, the first respondent filed W.P.No.3185 of 2011 and this Court on 09.02.2011, set aside the impugned order therein and remanded the matter to the State Level Scrutiny Committee for fresh consideration.

4.The State Level Scrutiny Committee once again rejected the claim of the first respondent on 16.08.2011. The decision was again challenged by the first respondent before this Court by way of W.P.No.22643 of 2011 on the ground that the petitioner was not able to appear before the Committee and it is neither willful nor wanton and the first respondent prayed for opportunity. Accordingly, this Court granted opportunity to the petitioner to produce the materials and appear before the Committee. Finally, the State Level Scrutiny Committee as per the order of this Court dated 10.09.2013 passed in W.P.No.15144 of 2012, conducted a detailed enquiry and decided the community status of the petitioner in his favour and confirmed that he belongs to 'Hindu Irular' Scheduled Tribe Community, which is contrary to the view taken by it earlier.

5.The learned counsel appearing for the petitioner submits that earlier, the State Level Scrutiny Committee has taken a different view and later the State Level Scrutiny Committee without any records and without considering the documents submitted by the petitioner, simply entrusting the view given by the antropologist, came to the conclusion that the first

respondent belongs to 'Hindu Irular' Scheduled Tribe Community and prays to set aside the impugned proceedings of the second respondent.

6.We have heard the learned counsel appearing for the petitioner, the learned counsel appearing for the first respondent and also the learned Additional Government Pleader appearing for the second respondent.

7.Considering the submissions made on either side and to meet the ends of justice, we are inclined to set aside the impugned proceedings of the second respondent dated 30.07.2014 on the ground that the State Level Scrutiny Committee without analysing the earlier proceedings dated 19.01.2011 and 16.08.2011 passed the impugned proceedings dated 30.07.2014 and as to what materials forced the present Committee to arrive at a conclusion as the petitioner belong to Scheduled Tribe Community contrary to the decisions taken by the earlier Committees are also not discussed in the present proceedings. The Rule of reservation deserves only to a person who is deserving. A person who is not deserving is not entitled to enjoy the reservation benefits. Hence, we are inclined to remand the matter to the second respondent for fresh consideration.

8.Accordingly, the writ petition is allowed and the impugned proceedings of the second respondent dated 30.07.2014 is set aside and the matter is remanded back to the second respondent/ State Level Scrutiny Committee for fresh consideration. The second respondent is directed to consider the matter afresh and after giving opportunity of hearing to the petitioner and the first respondent, pass appropriate orders, as expeditiously as possible, though not later than eight weeks from the date of receipt of a copy of this order. No costs.

सत्यमेव जयते
Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Chairman
State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingnar Maligai,
Secretariat,
Chennai - 600 009.

+1 cc to Mr.N.Nithiandam Advocate sr 46139
+1 cc to Mr.W.M.Abdul Alajeed Advocate sr 45171
+1 cc to the Government Pleader sr 45741

W.P.No.14614 of 2015

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