

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.04.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.34238 of 2014
and
M.P.No.1 of 2014

The Nilgiri Tribal Solidarity,
(Society Registered under the Tamil Nadu
Societies Registration Act)
Represented by its President
Professor T.M.Kullan
Regd.No.149/2012
12-A Melrose Campus,
Churchill Road, Udagamandalam,
The Nilgiris. Petitioner

Vs.

1. Union of India
Represented by its Secretary,
Ministry of Tribal Affairs,
Shastri Bhavan, New Delhi.
2. State of Tamil Nadu,
Represented by its Secretary,
Adi-Dravidar & Tribal Welfare Department,
Fort St.George, Chennai - 600 009.
3. The Registrar General of India,
2-A, Mansingh Road,
New Delhi - 110 001.
4. National Commission for Scheduled Tribes
6th Floor, 'B' Wing, Lokanayak Bhawan,
Khan Market, New Delhi - 110 003. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus, directing the respondents herein to consider afresh the issue of grant of Scheduled Tribe status to Badagas Tribe of Nilgiris under Article-342 of the Constitution of India after considering the report of the Committee to be appointed by this Hon'ble Court or

in any event on the basis of an objective evaluation based on proper and relevant data including studies by experts expeditiously.

For Petitioner : Mr.V.Prakash
Senior Counsel for Mr.A.Bobblie

For Respondents : Mr.Su.Srinivasan
Assistant Solicitor General
for R1, R3 and R4
Mr.A.Kumar,
Special Government Pleader
for R2

O R D E R

K.K. SASIDHARAN, J.

This writ petition is filed to direct the respondents to grant Scheduled Tribe status to Badagas Tribe of Nilgiris under Article 342 of the Constitution of India.

2. The petitioner is stated to be an Association formed for the Welfare of Badaga Tribe, who are inhabitants of Nilgiris. 'Badaga Community' is presently treated as Backward Class. The Badagas of Nilgiris were originally treated as hill Tribes. The Tribe was described as 'Primitive Tribe' by the British Government.

3. The petitioner submitted series of representations, both to the Union Government and the State Government to conduct enquiry and take action to declare Badaga Community as Scheduled Tribe. Since follow up action was not taken by the concerned authorities, the petitioner has come up with this writ petition.

4. We have heard the learned Senior Counsel for the petitioner, the learned Assistant Solicitor General for the respondents 1, 3 and 4 and the learned Additional Advocate General on behalf of the State Government.

5. The Counter affidavit filed by the Director of Ministry of Tribal Affairs indicates the earlier proceedings relating to the inclusion of 'Badaga Community' in the list of Scheduled Tribes in the State of Tamilnadu.

6. The Cabinet Committee on Scheduled Castes, Scheduled Tribes and Minorities, in its meeting held on 15 June 1999 appears to have approved the modalities for deciding the claim for inclusion or exclusion from the list of Scheduled Tribes. As per the procedure, the concerned State Government or Union

Territory Administration shall recommend the proposal along with justification to the Central Government. Such proposal would be forwarded to the Registrar General of India. In case, the Registrar General is satisfied with the recommendation made by the State Government, proposal with its recommendation would be sent to the Central Government. The matter would be sent thereafter to the National Commission for Scheduled Castes and Scheduled Tribes (for short NCST) for consideration and recommendation. The proposal would be placed before the Cabinet with the recommendation of the NCST. After taking a decision by the Cabinet, Bill will be introduced in the Parliament.

7. The State of Tamil Nadu made a recommendation for inclusion of 'Badagas Community' in the list of Scheduled Tribes of Tamil Nadu, vide letter dated 27 July 1990. The Registrar General of India appears to have expressed certain reservations with regard to the proposal for inclusion of Badaga Community as Scheduled Tribe. The State Government was called upon to submit a fresh proposal taking into account the observation made by the Registrar General of India. The representations dated 28 October, 2013 and 8 November, 2013 submitted by the petitioner is now pending with the authorities. The pendency of representations with the Government of Tamil Nadu is clearly stated in the counter affidavit filed by the Ministry of Tribal Affairs.

8. The typed set of papers produced by the Union of India indicates that the representations dated 28 October, 2013 and 8 November, 2013 were forwarded by the Ministry of Tribal Affairs, to the Secretary, Adi Dravidar and Tribal Welfare Department for follow up action. The matter is therefore pending with the State Government.

9. We direct the second respondent to consider and dispose of the representations, dated 28 October, 2013 and 8 November, 2013 on merits and as per law. Such exercise shall be completed, within a period of three months from the date of receipt of a copy of this order.

10. The writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

svki

To

1. The Secretary,
Union of India, Ministry of Tribal Affairs,
Shastri Bhavan, New Delhi.
2. The Secretary,
State of Tamil Nadu,
Adi-Dravidar & Tribal Welfare Department,
Fort St.George, Chennai - 600 009.
3. The Registrar General of India,
2-A, Mansingh Road, New Delhi - 110 001.
4. National Commission for Scheduled Tribes
6th Floor, 'B' Wing, Lokanayak Bhawan,
Khan Market, New Delhi - 110 003.

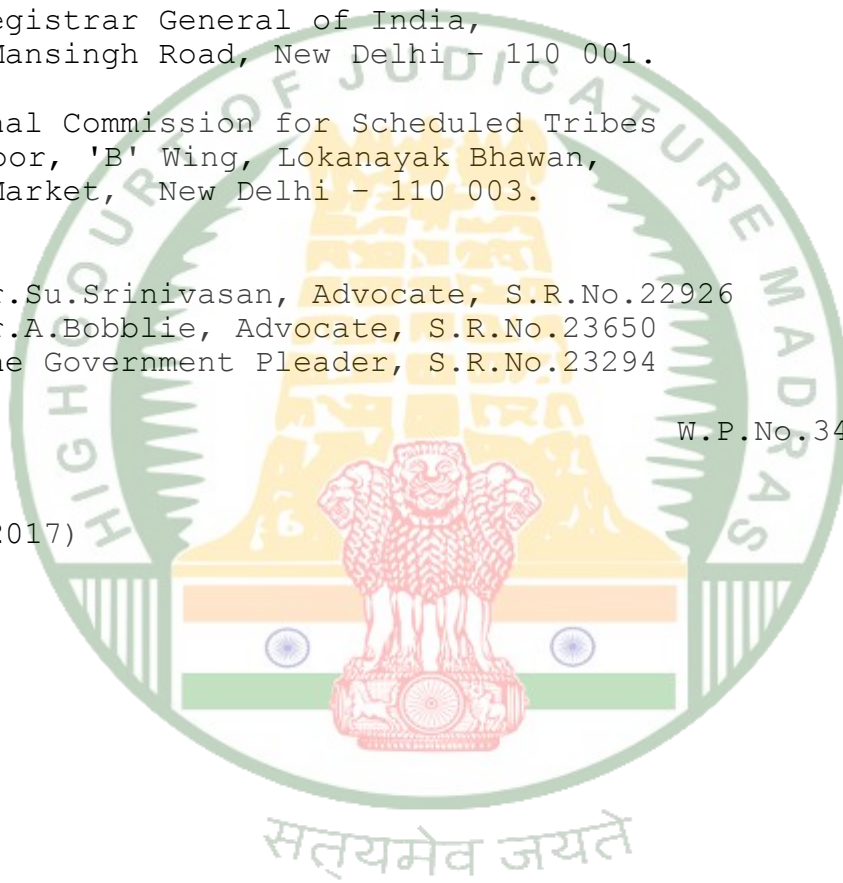
+1cc to Mr.Su.Srinivasan, Advocate, S.R.No.22926

+1cc to Mr.A.Bobblie, Advocate, S.R.No.23650

+1cc to the Government Pleader, S.R.No.23294

W.P.No.34238 of 2014

NR(CO)
CA(19/06/2017)



WEB COPY