

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 06.04.2017

Delivered on : 18.04.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.17741 of 2016,

WMP Nos.15431, 19731, 36028 and 36029 of 2016

K.J.Arunmozhi ...Petitioner

vs.

- 1.The Chairman
State Level Scrutiny Committee and
Secretary, Adi Dravidar and
Tribal Welfare Department,
Fort St.George, Chennai.
- 2.Mr.P.Annamalai, I.A.S.,
Chairman, State Level Scrutiny Committee and
Secretary, Adi Dravidar and
Tribal Welfare Department,
Fort St.George, Chennai.
- 3.The General Manager,
Heavy Alloy Penetrator Project,
Government of India,
Trichy -25.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorari, calling for the proceedings of the first respondent in No.16665/CV-4(2)/2013-15 dated 7.4.2016 and received on 6.5.2016 and quash the same.

For Petitioner : Mr.V.Vijay Shankar
For Respondents: Mr.K.Venkatramani,
Additional Advocate General
Assisted by Mr.A.Kumar, Spl.G.P.
for R1 and R2
Mr.G.Rajagopal,
Additional Solicitor General
Assisted by Mr.V.P.Sengottuvel for R3

O R D E R

K.K. SASIDHARAN, J.

The State Level Scrutiny Committee, by order dated 7 April 2016 held that the Scheduled Tribe certificates issued to the petitioner by the Tahsildar, Mettur, dated 17 November 1980 and the Revenue Divisional officer, Mettur, dated 27 October 1988, were not genuine and subsequently, cancelled those certificates and made recommendation to the employer to take criminal action against him. The order is under challenge primarily on the ground that the materials produced by the petitioner were not considered before deciding the community status.

2. The State Level Scrutiny Committee filed a counter affidavit and justified the order impugned in this writ petition. The Scrutiny Committee contended that re-enquiry conducted by the Deputy Superintendent of Police, Vigilance Cell, concluded that the petitioner is not from "Kondareddis" community and his claim is false. The petitioner belongs to "Reddiyar", which is a Forward Community and as such, he is not entitled to the benefits earmarked for Scheduled Tribes.

3. The learned counsel for the petitioner contended that in order to prove the community status, the petitioner produced voluminous documents. The State Level Scrutiny Committee, ignored those documents and considered only one document, which was against the petitioner. The learned counsel contended that reasonable opportunity was not given to cross examine the witnesses examined by the Village Administrative Officer. In short, non-consideration of vital documents and violation of principles of natural justice are taken as the primary grounds to challenge the order passed by the State Level Scrutiny Committee.

4. The learned Additional Advocate General contended that the State Level Scrutiny Committee conducted detailed enquiry as indicated in the judgment of the Supreme Court in Kumari Madhuri Patil v. Additional Commissioner, Tribal Development and others [(1994) 6 SCC 241] and arrived at a clear finding that the petitioner belongs to "Reddiyar" Community. According to the

learned Additional Advocate General, the finding in question was given on the basis of the available materials and as such, the impugned order is unassailable.

5. The petitioner challenges the order passed by the State Level Scrutiny Committee on the ground that documents relied on were not furnished to him and he was not permitted to cross-examine the witnesses, whose statements were taken on record to arrive at a finding against him.

6. The report submitted by the Vigilance Cell, dated 20 February, 2015 and the order impugned in this writ petition, clearly shows that the materials collected by conducting discreet enquiry were also taken note of by the Scrutiny Committee to decide the community status of the petitioner.

7. It is also not in dispute that re-enquiry was conducted by the Deputy Superintendent of Police, Vigilance Cell, Salem Region.

8. The report submitted by the Vigilance Cell contained a statement to the effect that statements were given by Village Administrative Officer and Village Assistant to the effect that the petitioner belongs to "Reddiyar" Community. None of those statements were furnished to the petitioner. Similarly, it is the grievance of the petitioner that documents produced by him to demonstrate that his near relatives were given Community Certificate, were also not considered by the State Level Scrutiny Committee.

9. The State Level Scrutiny Committee was expected to follow the procedure indicated by the Supreme Court in Kumari Madhuri Patil (cited supra) and subsequently, in Dayaram v. Sudhir Batham [2012 (1) SCC 333]. The Scrutiny Committee must address the issue in an unbiased manner. In case, adverse materials are collected by conducting discreet enquiry, necessarily, those materials should be furnished to the petitioner.

10. The order passed by the Scrutiny Committee clearly indicates that the report of the discreet enquiry was also taken into account for deciding the community status. We are therefore of the view that the matter requires fresh consideration by the State Level Scrutiny Committee.

11. In the result, the order dated 7 April 2016 is set aside. The matter is remitted to the State Level Scrutiny Committee for fresh consideration.

12. The State Level Scrutiny Committee is directed to supply a copy of the Vigilance Report and the statements of witnesses

examined by the Vigilance Cell. In case, those statements are against the claim made by the petitioner, necessarily, he should be given liberty to cross-examine the witnesses, by summoning them in the office of the Scrutiny Committee. Since the matter is pending for years together, every effort should be taken by the State Level Scrutiny Committee to conclude the proceedings. The petitioner should be given reasonable time to appear before the Committee and to cross-examine the witnesses, in case, the Committee is relying on the statements given by the witnesses. The petitioner is directed to cooperate with the Scrutiny Committee for an early disposal of the matter. In case, it is made out that the petitioner is prolonging the matter with a view to evade the disciplinary proceedings, it is open to the Scrutiny Committee to take a decision on the basis of the available materials. There shall be a further direction to the State Level Scrutiny Committee to complete the verification process as expeditiously as possible, and in any case, within a period of three months from the date of receipt of a copy of this order.

13. The writ petition is allowed to the limited extent indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

(svki)

To

1.The Chairman
State Level Scrutiny Committee and
Secretary, Adi Dravidar and
Tribal Welfare Department,
Fort St.George, Chennai.

2.The General Manager,
Heavy Alloy Penetrator Project,
Government of India,
Trichy -25.

+1cc to Mr.V. Vijayashankar, Advocate, S.R.No.23566
+1cc to Mr.V.P. sengottuvel, Advocate, S.R.No.23392
+1cc to the Government Pleader, S.R.No.23564

kj (CO)
md(26/04/2017)

W.P.No.17741 of 2016