IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :: 10.04.2017

Delivered on :: 20.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P. No.2641 of 2015

K.Karthikeyan ... petitioner

Vs

1 The State Level Scrutiny Committee Rep. by its Chairman and Secretary to Government Adi Dravidar and Tribal Welfare Department Government of Tamil Nadu Chennai-9.

2 The Air India Engineering Services Ltd Rep. by its Executive Director (Engg) 4th Flr No.3 Hanger Old Airport Kalina Santacruz (East) Mumbai-29.

3 The Air India Ltd Rep. by its Deputy General Manager (Personnel) SC/ST Cell Old Airport Kalina Santacruz (East) Mumbai-29. ... respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorari to call for the records relating to the proceedings of the first respondent in proceedings No.17070/CV-4/ 2011-18 dated 23.1.2015 and quash the order passed therein.

For petitioner : Mr.AR.L.Sundaresan, Senior counsel for M/s.M.Suresh Kumar

For Respondents : Mr.K.Dhanajayan, Special Government Pleader for R1
Mr.S.Sathish Kumar, for respondents 2 and 3 for Mr.N.G.R.Prasad

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O R D E R

K.K.SASIDHARAN, J.

This Writ Petition is directed against the order dated 23 January 2015 on the file of Tamil Nadu State Level Scrutiny Committee, cancelling the Schedule Tribe Community Certificate issued to the petitioner.

The facts:-

2. The petitioner obtained community certificate from the Taluk Office, Sankari, and secured employment in Air India against the post reserved for Schedule Tribe. The certificate was cancelled by the District Collector, Salem. The petitioner filed a Writ Petition. The High Court remitted the matter to the State Level Scrutiny Committee for fresh consideration. The State Level Scrutiny Committee by order dated 2 November 2011 held that the petitioner does not belong to Schedule Tribe. The order was challenged in W.P.No.25913 of 2011. The High Court by order dated 9 February 2012 set aside the order passed by the State Level Scrutiny Committee and directed fresh consideration.

3. It is the case of the petitioner that he appeared before the State Level Scrutiny Committee and produced string of documents to prove his community status. The Scrutiny Committee, without considering any of those documents, once again arrived at a conclusion that he does not belong to schedule tribe. The said order is under challenge in this Writ Petition.

4. The State Level Scrutiny Committee, through its Deputy Secretary, filed a counter affidavit in answer to the contentions raised by the petitioner in the affidavit filed in support of the Writ Petition. According to the respondent, the Vigilance Cell, conducted a fresh investigation and reported that the petitioner does not belong to Schedule Tribe. The report was given to the petitioner and thereafter, the issue was considered. According to the first respondent, none of the documents produced by the petitioner proved his claim that he belongs to Konda Reddy Community, which is notified as a Schedule Tribe.

Submissions:-

5. The learned Senior counsel for the petitioner contended that the petitioner produced two sets of documents as per Annexure I and Annexure II. Even though 57 documents were filed, the Scrutiny Committee has not considered even a single document before rejecting the claim made by the petitioner. According to the learned Senior counsel, the Scrutiny Committee was not correct in ignoring the voluminous documents produced by the petitioner. In short, it is the contention of the learned Senior counsel that in case those documents were considered, it would prove that the petitioner belongs to schedule tribe.

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6. We have also heard the learned Government Pleader on behalf of the State Level Scrutiny Committee and the learned counsel appearing for Air India.

Discussion and disposal:-

7. This Writ Petition has got a chequered history. The petitioner commenced his litigious journey immediately after securing employment. The High Court, on two occasions, quashed the order passed by the Scrutiny Committee. The Scrutiny Committee by order dated 2 November 2011, rejected the claim made by the petitioner. The order was challenged in W.P.No.25913 of 2011. The High Court by order dated 9 February 2012, set aside the order passed by the Scrutiny Committee and remanded the matter for fresh consideration.

8. The State Level Scrutiny Committee followed the procedure indicated by the Supreme Court in Kumari Maduri Patil and anr. vs. Additional Commissioner, Tribal Development and ors., 1994 (6) SCC 241 and more particularly sub paragraph (6) and (7) of paragraph 13, dealing with investigation by the Vigilance Cell. It is also a matter of record that a copy of the Vigilance report was also given to the petitioner to as to enable him to file his response.

9. The only grievance of the petitioner appears to be the non consideration of the voluminous documents produced by him before the Scrutiny Committee.

10. The petitioner produced 43 documents as per Annexure I and 14 documents as per Annexure II. The Scrutiny Committee was expected to consider those documents one after another to decide the matter.

11. The order passed by the State Level Scrutiny Committee and more particularly paragraph 15 shows the petitioner produced as many as 57 documents and it was received by the Committed on 5 November 2014. The Scrutiny Committee simply stated that documents were verified and it arrived at a conclusion that the claim of the petitioner was not true. This is not the way in which the State Level Scrutiny Committee must consider the claim for social status certificate.

12. The Hon'ble Supreme Court very clearly indicated the procedure to be followed by the State Level Scrutiny Committee in Kumari Madhuri Patil. There is no shortcut method in a matter of this nature. The Scrutiny Committee is bound to consider all the documents produced by the petitioner. There should be a reference in the order with respect to each and every document. It is not as if one line order could be made saying that the verification was made and the documents are not supportive of

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the claim made by the petitioner. Since the State Level Scrutiny Committee failed to consider the documents produced by the petitioner, necessarily, the impugned order must be set aside. However, we make it clear that the reconsideration of the issue is necessitated only on account of the non consideration of the 57 documents produced by the petitioner. In short, the direction is not to conduct a de novo enquiry, right from the beginning, including investigation by the Vigilance Cell. The enquiry should be confined to the examination of documents produced by the petitioner as per Annexure I and Annexure II.

13. The State Level Scrutiny Committee is directed to summon the petitioner on a particular day for considering the documents produced by him. The petitioner should be given two weeks advance notice to appear before the Scrutiny Committee. The petitioner shall appear before the State Level Scrutiny Committee on the prescribed date and explain each and every document and as to how it is relevant to decide the community status. The State Level Scrutiny Committee is directed to consider those documents and arrive at a finding. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

14. The Writ Petition is allowed to the limited extent indicated above. No costs. Consequently, M.P.Nos.1 and 2 of 2015 are closed.

Sd/-
Asst.Registrar (CS II)

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Sub Asst. Registrar

tar

To

1 The Chairman and secretary to Government
State Level Scrutiny Committee
Adi Dravidar and Tribal Welfare Department
Government of Tamil Nadu Chennai-9.

2 The Executive Director[Engg]
Air India Engineering Services Ltd.
4th Flr No.3 Hanger Old Airport
Kalina Santacruz (East) Mumbai-29.

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3 The Deputy General Manager (Personnel)
Air India Ltd
SC/ST Cell Old Airport Kalina
Santacruz (East) Mumbai-29.

+1 cc to Government Pleader, Sr.24129
+1 cc to Mr.M.Suresh Kumar, Advocate, Sr. 23855
+1 cc to Mr.N.G.R. Prasad, Advocate, Sr.23883

W.P. No.2641 of 2015

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