

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.04.2017
Delivered on : 27.04.2017

CORAM:

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

W.P.Nos.18303, 15238 and 15239 of 2014 and
M.P.Nos.1, 2 and 2 of 2014

G.RavikumarPetitioner in all WPs

vs.

1. The District Level Vigilance Committee,
Rep. by its Members, Vellore.
2. The Corporation of Vellore,
Rep. by its Commissioner,
Vellore.
3. The District Collector,
Vellore.
4. The District Adi-Dravidar and Tribal Welfare Officer,
Vellore.
5. The State Election Commission
rep by its Secretary,
Jai Nagar, Koyambedu,
Chennai - 600 106.Respondents in all WPs

PRAYER in W.P.No.18303 of 2014: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the records of the 1st Respondent Committee under the impugned proceedings Na.Ka.K5/36697/2011 dated 25.09.2013 and to quash the same and direct the 1st respondent to pass orders after granting ample and sufficient opportunity to the petitioner to let in evidence including cross examining the official witness and to challenge the official exhibits in accordance with law and in accordance with GO Ms 108 and dictum laid down in 1994(6) SCC Pg 241.

PRAYER in W.P.No.15238 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus, calling for the records of the 3rd

respondent under impugned proceedings Na.Ka.No.5/36697/2011 dated 27.05.2014 and to quash the same and forbear the 2nd and 3rd respondents from initiating any proceedings against the petitioner herein as contemplated in the impugned proceedings until the 1st respondent furnished the copy of the proceedings holding that petitioner community certificate of Hindu Adi-dravida is not genuine in Na.Ka.No.K5/36697/2011 dated 25.09.2013 as set out in 3rd respondent's impugned proceedings Na.Ka.No.K5/36697/2011 dated 27.05.2014 and sufficient time is granted to challenge the same.

PRAYER in W.P.No.15239 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus, directing the 1st respondent to supply to the petitioner a copy of the impugned proceedings holding that petitioner community certificate of Hindu Adi-dravida is not genuine in Na.Ka.No.K 5/36697/2011 dated 25.09.2013 as set out in 3rd respondents impugned proceedings Na.Ka.No.K5/ 36697/2011 dated 27.05.2014.

For Petitioner : Mr.Richardson Wilson

For R1, 3 and 4: Mr.V.Sethuraman,
Additional Advocate General
Asst. by Mr.A.Kumar, Special
Government Pleader for RR1, 3 & 4

For R2 : Ms.P.Shanthi
For R5 : No appearance

C O M M O N O R D E R

K.K. SASIDHARAN, J.

The writ petition in W.P.No.18303 of 2014 is directed against the proceedings of the District Level Vigilance Committee dated 25 September, 2013 declaring that the petitioner does not belong to Scheduled Caste.

2. The writ petitions in W.P.Nos.15238 and 15239 of 2014 are directed against the proceedings dated 27.05.2014 on the file of the District Collector, Vellore, whereby and where under, recommendation was made to the Commissioner, Corporation of Vellore, to take appropriate criminal action against the petitioner and to disqualify him on the basis of the findings recorded with regard to his community status.

Brief Facts:

3. The petitioner is stated to be the member of a Scheduled Caste Community. The petitioner was elected from Ward No.4 of Vellore Municipality in the Local Body Elections held in October 2011. There was a dispute with regard to the community status claimed by the petitioner. The matter was therefore referred to the District Level Vigilance Committee. The petitioner appeared before the Committee and produced documents to demonstrate that he belongs to Adi Dravidar Community. The Committee appears to have called for a report from the Anthropologist. However, copy of the report was not given to the petitioner. The petitioner, through his letter dated 7 June, 2013 requested the District Vigilance Committee to furnish him all the documents and materials collected, besides the report of the Anthropologist. However, there was no response. The first respondent, ultimately, cancelled the community certificate of the petitioner. Feeling aggrieved, the petitioner is before this Court.

4. The District Collector, Vellore filed a counter affidavit, wherein, it was contended that the enquiry revealed that the petitioner converted to Christianity and therefore he was treated as a person belonging to Backward community. The District Collector contended that the documents produced by the petitioner were all verified and a decision was taken to declare that he does not belong to Hindu Adi Dravidar Community.

Submissions:

5. The learned counsel for the petitioner contended that the first respondent passed the impugned order without furnishing the copies to the petitioner. According to the learned counsel, enquiry was conducted in a discreet manner, without giving opportunity to the petitioner. The learned counsel contended that neither the Government order relating to the verification of the community status nor the judgment of the Hon'ble Supreme Court in Kumari Madhuri Patil v. Additional Commissioner, Tribal Development and others [(1994) 6 SCC 241] were followed by the first respondent. In short, it is the contention of the petitioner that there was gross violation of principles of natural justice.

6. The learned Additional Advocate General contended that due opportunity was given to the petitioner to take part in the enquiry. The relevant materials were all supplied to him and only thereafter a decision was taken in the matter. The orders are therefore unassailable.

Analysis:

7. It is the case of the petitioner that he originally belonged to Adi Dravidar community, which is notified as a Scheduled Caste. According to the petitioner, in order to marry a person from Christianity, he embraced Christianity and was baptised by the Church of South India authorities. His marriage was registered before the Church of South India, Katpadi on 13 July 2001. It is the further case of the petitioner that he renowned Christianity subsequently and is practising Hinduism.

8. The Community status claimed by the petitioner was the subject matter of proceedings before the District Level Vigilance Committee. The Committee appears to have collected documents and statements without the knowledge of the petitioner. It is a matter of record that the petitioner submitted series of representations requesting the first respondent to provide him a copy of the enquiry report and the statements recorded.

9. The order passed by the first respondent clearly shows that the statements recorded behind the back of the petitioner were all used to arrive at a finding that he does not belong to Scheduled Caste Community. There is nothing on record to show that the entire documents placed on record by the first respondent were given to the petitioner.

10. The first respondent was expected to conduct enquiry in the manner indicated by the Hon'ble Supreme Court in Kumari Madhuri Patil (cited supra) and reiterated later in Dayaram v. Sudhir Batham [2012 1 SCC 333]. The enquiry should not be a mere formality. It should be a meaningful one. In case, statements were recorded from third parties, necessarily, opportunity should be given to the concerned person for cross examination. The enquiry report submitted by the Vigilance Cell should also be given to the petitioner along with enclosures.

11. The order passed by the first respondent does not contain any indication that the petitioner was given reasonable opportunity to state his case by cross examining the witnesses. Similarly, there is nothing on record to show that the documents were given to the petitioner to offer his comments. We are therefore of the view that the impugned orders are liable to be quashed for the simple reason that the first respondent failed to follow the principles of natural justice.

12. In the result, the impugned orders are set aside. The matter is remitted to the first respondent for fresh consideration.

13. The first respondent is directed to furnish copies of all the documents and the enquiry report, besides the statements

of witnesses examined by the Vigilance Cell. The petitioner should be given opportunity to cross examine the witnesses, if statements of those witnesses were taken as primary materials to arrive at a finding against the petitioner. In short, the first respondent shall adhere to the principles of natural justice. The first respondent is directed to consider the entire issue afresh and pass appropriate orders 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.

14. In the up shot, we allow the writ petitions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To

1. The Members,
The District Level Vigilance Committee,
Vellore.
2. The Commissioner,
Corporation of Vellore, Vellore.
3. The District Collector,
Vellore.
4. The District Adi-Dravidar and Tribal Welfare Officer,
Vellore.
5. The Secretary,
The State Election Commission
Jai Nagar, Koyambedu, Chennai - 600 106.

+1cc to Government Pleader sr.26459

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15239 of 2014

rsy(co)
ss(15/5/2017)