

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2017

CORAM :

THE HON'BLE MR. JUSTICE C.T.SELVAM
AND
THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

Writ Petition No.27800 of 2017
and
W.M.P.No.29783 of 2017

Dr.P.M.Muni Reddy

.. Petitioner

Vs

- 1.The State, rep.by
The Principal Secretary to Government,
Adi Dravidar and Tribal Welfare (CV3) Department,
Fort St. George, Chennai - 600 009.
 - 2.The Secretary,
Tamil Nadu State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
NamakkalKavignarMaligai,
3rd Floor, Secretariat,
Chennai - 600 009.
 - 3.The District Collector,
Krishnagiri.
 - 4.The Sub Collector,
Hosur.
 - 5.The Deputy Superintendent of Police,
SC/ST Vigilance Cell,
Salem Division (W.E.),
District Adi Dravidar and Tribal Welfare Office,
Collectorate, Salem.
 - 6.The Deputy Superintendent of Police,
Social Justice and Human Rights,
Krishnagiri District.
- .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India to issue a writ of declaration declaring that the final Konda Reddis Community Certificate issued to the petitioner on 07.07.1990 based on the orders issued in W.P.No.13352 of 1985 and W.A.No.1054 of 1986 is final and immune to being reviewed

and it cannot be called into question, subjecting to any further enquiry and further directing the respondents authorities not to proceed with any enquiry to verify the genuineness of or to cancel the community certificate dated 07.07.1990 issued to the petitioner.

For Petitioner : Mr.P.T.Perumal

For Respondents : Mr.K.Venkatramani
Additional Advocate General
Assisted by
Mr.S.N.Parthasarathy
Government Advocate

ORDER

(Order of this Court was made by M.V.MURALIDARAN,J.)

By way of this writ petition, the petitioner seeks a writ of declaration, declaring that the final community certificate issued to the petitioner on 07.07.1990 based on the orders issued in W.P.No.13352 of 1985 and W.A.No.1054 of 1986 to the effect that the petitioner belongs to "Konda Reddis" Community is final and immune to being reviewed and it cannot be called into question, subjecting to any further enquiry and further directing the respondents authorities not to proceed with any enquiry to verify the genuineness of or to cancel the community certificate dated 7.7.1990 issued to the petitioner.

2. The facts relevant for disposal of this writ petition are narrated infra. According to the affidavit, he belongs to Hindu "Konda Reddis" Community, which is a Scheduled Tribe Community and the Deputy Tahsildar of Hosur issued a community certificate to the said effect on 09.08.1977. Based on a complaint given by one T.V.Subba Rao that the community certificate issued to the petitioner was not genuine, an enquiry was conducted by the District Collector, who, vide his report dated 10.05.1978, found that the petitioner belongs to "Konda Reddy" Community and based on the said report, the State Government, vide letter dated 22.05.1978 informed the said complainant that his allegation is unfounded.

3. It is averred that almost twelve enquiries were conducted qua the genuineness of his community certificate and each time the authorities concerned ruled in his favour. Thereafter, in the year 1983, another complaint was made regarding the communal status of the petitioner and based on the same, the Sub Collector initiated a fresh enquiry, which was challenged by the petitioner by filing W.P.No.13352 of 1985. The said writ petition was allowed holding that the Sub Collector has no jurisdiction to conduct fresh enquiry and the said order was

confirmed on appeal in W.A.No.1054 of 1985. Based on these orders, the Sub Collector issued a community certificate on 07.07.1990 to the effect that the petitioner belongs to "Konda Reddis" Community.

4. The affidavit has further stated that even thereafter, on one pretext or the other, 46 enquiries were conducted qua the genuineness of the community certificate of the petitioner and all those enquiries concluded in favour of the petitioner.

5. It is stated that when the petitioner's son applied for community certificate, the Sub Collector referred the same to State Level Scrutiny Committee. The petitioner's son challenged the same by filing W.P.No.17180 of 2014, a Division Bench of this Court, by order dated 30.04.2015, directed the Sub Collector to issue community certificate to the petitioner's son. It is further stated that despite such order passed, the authorities did not comply with the same and ultimately, when a contempt petition was filed by the petitioner's son, community certificate was issued to him to the effect that he belongs to "Konda Reddis" Community.

6. It is averred that when things stood thus, the petitioner's daughter filed an application seeking community certificate and once again the Sub Collector, by order dated 07.06.2017, referred the community certificate of the petitioner to the State Level Scrutiny Committee. Assailing the same, the petitioner's daughter filed W.P.No.16407 of 2017 and the same is stated be pending.

7. It is stated that based on such reference made by the fourth respondent/The Sub Collector, Hosur, the first respondent issued a communication on 06.07.2017 to the Director of Tribal Welfare, Deputy Superintendent of Police, SC/ST Vigilance Cell and the District Tribal Welfare Officer to verify the genuineness of the community certificate issued to the petitioner, which, according to him, is in violation of the orders passed by this Court, referred supra.

8. It is the case of the petitioner that the fourth respondent issued a notice on 10.07.2017 requiring the petitioner to attend an enquiry on 13.07.2017 qua the facts pertaining to W.P.No.16407 of 2017, the writ petition filed by petitioner's daughter.

9. Alleging that the respondent authorities are inimical towards him and, therefore, are acting in an excessive and high-handed manner and are harassing him by calling into question a community certificate which was issued after various orders passed by this Court, the petitioner has filed this writ

petition for a writ of declaration as stated above.

10. In the counter affidavit filed by the fourth respondent, it is averred that during the course of issuance of community certificate to petitioner's daughter, it is obligatory to conduct an enquiry about the communal status of her parents and take a final call in the matter and, therefore, there is no violation of any procedure contemplated under law. That apart, the allegation regarding personal vendetta is also refuted.

11. It is further stated that as per the decision in in Kumari Madhuri Patil v. Additional Commissioner, Tribal Development, (1994) 6 SCC 241, if any lapse is noticed in previous cases, a fresh enquiry may be conducted and, therefore, the writ petition challenging such enquiry should not be entertained.

12. In any event, it is submitted that the in writ petition, being W.P.No.16407 of 2017, filed by the petitioner's daughter, this Court, by order dated 24.07.2017, directed her to exhaust appellate remedy and directed the District Collector, Krishnagiri, to provide enough opportunity to the petitioner and pass orders on the appeal within six weeks in a fair and just manner, and, therefore, there is nothing wrong in conducting an enquiry.

13. We heard Mr.P.T.Perumal, learned counsel for the petitioner and Mr.K.Venkatramani, learned Additional Advocate General, Assisted by Mr.S.N.Parthasarathy, learned Government Advocate for the respondents at length and perused the documents available on record.

14. It is beyond any cavil that in the case on hand the petitioner was issued a community certificate to the effect that he belongs to "Konda Reddis" Community, which is a Scheduled Tribe, way back on 09.08.1977 by the Deputy Tahsildar, Hosur. Admittedly, the said community certificate has not been set aside till date.

15. On a complaint made by one T.V.Subba Rao to the effect that the social status claimed by the petitioner is wrong, an enquiry was conducted by the District Collector, who, in his report dated 10.05.1978, held as under: "The applicant has produced recorded evidence of the year 1922 which gives proof that he belongs to 'Konda Reddy' Community. Further, according to School records also he belongs to 'Konda Reddy' Community. As such the certificate issued by the Deputy Tahsildar, Hosur is based on valid record and the allegation is not borne on facts."

16. Thereafter, during 1983, again some third party made a similar complaint as the one referred to above and the Sub Collector initiated a fresh enquiry. Exasperated by the same, the petitioner filed W.P.No.13352 of 1985, wherein a learned Single Judge of this Court, by order dated 24.04.1986, held as under:

"There is considerable difference between initiating proceeding for taking action for cancellation and process of verification as contemplated in the brochure. If it is to be cancelled, burden is upon authority to show how earlier declaration on verification was wrong and only thereafter certificate holder, has to produce materials. The impugned notice had been issued for the purpose of verification and, therefore, the writ petition is allowed."

17. On appeal by the State, the Division Bench of this Court, by order dated 25.04.1989 made in W.A.No.1054 of 1986, dismissed the appeal upholding the order of the learned Single Judge, which also referred to the report of the District Collector dated 10.05.1978.

18. It is only after such orders were passed by this Court in writ petition and writ appeal, the Sub Collector, Hosur, issued a community certificate to the petitioner on 07.07.1990 to the effect that he belongs to "Konda Reddis" Community.

19. It is seen from the documents available on record that even though the petitioner was granted community certificate as stated above, the veracity of the same was put to test on various occasions by conducting enquiries after enquiries. The plea of the petitioner that almost 46 enquiries were conducted to verify the communal status of the petitioner and on all occasions the authorities failed is neither refuted nor denied by the respondent authorities.

20. For instance, it is seen that for issuance of community certificate to the petitioner's son, the petitioner's community certificate was once again sent for verification by the Sub Collector to the State Level Scrutiny Committee and the petitioner's son could get his community certificate, only after filing of the contempt petition, as stated above.

21. Thereafter, when the petitioner's daughter applied for issuance of community certificate, again the first respondent vide proceedings dated 06.07.2017 directed the Director of Tribal Welfare, Deputy Superintendent of Police, SC/ST Vigilance Cell and the District Tribal Welfare Officer to verify the genuineness of the community certificate issued to the petitioner by the Sub Collector, Hosur, by making an open enquiry.

22. The above said act of the respondent authorities in conducting repeated enquiry into the community certificate of the petitioner, which was issued pursuant to the order passed by a Division Bench of this Court, that too based on the report of the District Collector, only shows that the powers to be are acting on autopilot, without application of mind and in scant disregard to the orders passed by this Court. If such enquiry was held on one or two occasions, some reason can be imputed to it, but to conduct 46 enquiries qua the social status of the petitioner and having failed, one more enquiry at this stage, in our firm view, is nothing but a clear case of harassment and abuse of power by the respondent authorities.

23. We are of the considered opinion that even though the authorities are competent to verify the correctness of the community certificate, once a report is received from a competent authority that the community certificate issued to the petitioner is genuine; a final community certificate is issued to the petitioner pursuant to orders passed by this Court; the petitioner's son was issued community certificate, the certificate holder cannot be further harassed to prove his case or community in any other manner and holding of such repeated enquiries on the same subject concluded long ago shall only tantamount to harassment and violation of Article 21 of the Constitution of India.

24. For the foregoing reasons, we allow the writ petition as prayed for and the respondents are enjoined from conducting any enquiry to verify the genuineness of or to cancel the community certificate dated 07.07.1990 issued to the petitioner. No costs. Consequently, W.M.P.No.29783 o 2017 is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

vs

To

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1.The Principal Secretary to Government,
Adi Dravidar and Tribal Welfare (CV3) Department,
Fort St. George, Chennai - 600 009.

2.The Secretary,
Tamil Nadu State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
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3.The District Collector,
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5.The Deputy Superintendent of Police,
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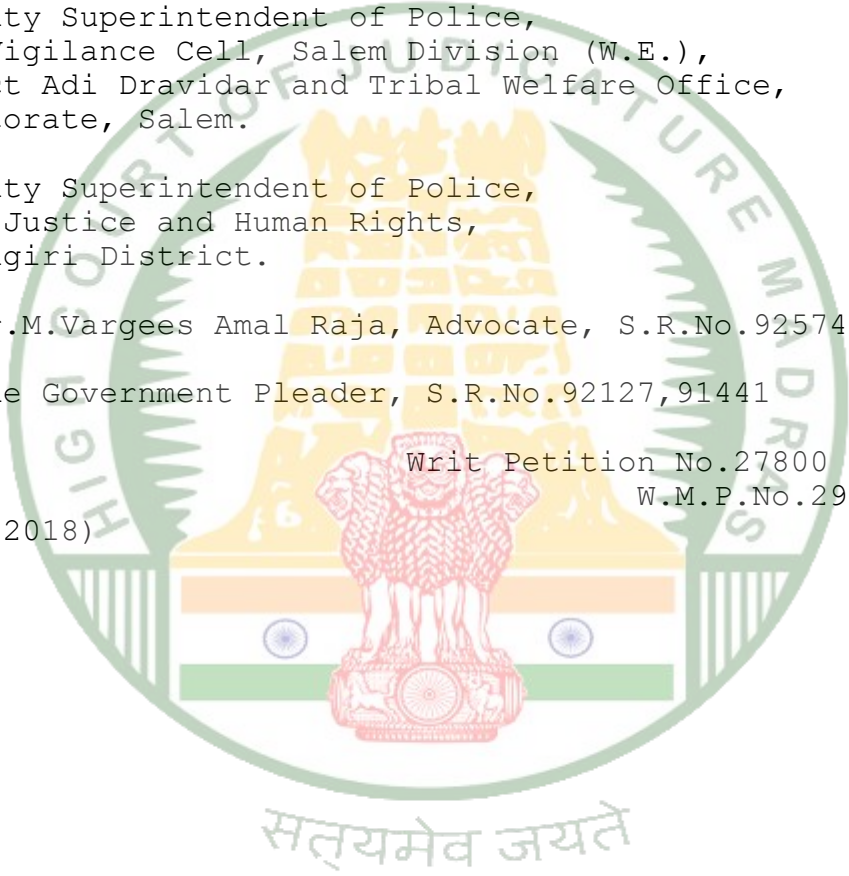
6.The Deputy Superintendent of Police,
Social Justice and Human Rights,
Krishnagiri District.

+2cc to Mr.M.Vargees Amal Raja, Advocate, S.R.No.92574

+1cc to the Government Pleader, S.R.No.92127,91441

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W.M.P.No.29783 of 2017

RRK(24/01/2018)



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