

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2017

CORAM :

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

Writ Petition No.28068 of 2017
and
WMP.No.30152 of 2017

M.Vinayagam

.. Petitioner

Vs

1. The Tamil Nadu State Level Scrutiny Committee,
Rep. by its Chairman and Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Fort St. George, Chennai - 600 009.
2. The Deputy Superintendent of Police,
O/o. Deputy Superintendent of Police,
Social Justice and Human Rights Division,
Tiruvallur, Tiruvallur District. .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records of the first respondent in proceedings pursuant to Letter No.11409/CV-4(1)2014-2, dated 08.09.2016 and the consequential proceedings in Na.Ka.No.72.SJ&HR/2017, dated 29.08.2017 of the second respondent, to quash the orders passed therein and to consequently, forbear the respondents from re-opening the enquiry pertaining to the community certificate of the petitioner in the light of the orders passed by this Court in W.P.Nos.14712 and 8982 of 1992.

For Petitioner : Mr.Yogesh Kannadasan
For Respondents: Mr.S.N.Parthasarathy
Government Advocate

ORDER

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

The petitioner has filed this writ petition seeking issuance of a writ of Certiorarified Mandamus to call for the records of the first respondent in proceedings pursuant to Letter No.11409/CV-4(1)2014-2, dated 08.09.2016 and the consequential

proceedings in Na.Ka.No.72.SJ&HR/2017, dated 29.08.2017 of the second respondent, to quash the same and to consequently, forbear the respondents from re-opening the enquiry pertaining to the community certificate of the petitioner in the light of the orders passed by this Court in W.P.Nos.14712 and 8982 of 1992.

2. According to the petitioner, he belongs to Kondareddis Community, which is a Scheduled Tribe community, and has also obtained a community certificate to that effect from the Tahsildar, Tirutani on 03.10.1985. On the strength of the said community certificate, he joined the services of Canara Bank as a daily wager in the year 1985.

3. It is averred that the community certificate issued to the petitioner was sent for verification to the District Collector, Chengai-Kancheepuram District by the employer of the petitioner and the District Collector cancelled the community certificate issued to the petitioner holding that the petitioner belongs to Kondalakulam Community.

4. The said order passed by the District Collector was challenged by the petitioner by filing W.P.No.14712 of 1992. This Hon'ble Court, by order dated 13.10.1999, allowed the writ petition and held that Kondalakulam and Kondareddis communities are one and the same.

5. Pending the above said writ petition in W.P.No.14712 of 1992, the name of the petitioner was removed from the daily wagger panel by order dated 01.07.1992 of his employer and assailing the said order, the petitioner filed W.P.No.8982 of 1992. In the said writ petition, this Hon'ble Court, by order dated 29.11.1999, noting that the order passed by the employer on 01.07.1992 was solely based on the report of the District Collector, which was set aside by order dated 13.10.1999 in W.P.No.14712 of 1992, allowed the writ petition. At this juncture, it is to be noted that there was no break in the services of the petitioner, as pending the above said writ petitions, an interim order was passed by this Court in favour of the petitioner.

6. It is the case of the petitioner that in the year 2000, his service was confirmed and subsequently, in the year 2002, he was promoted as Clerk and in the year 2014, as Officer, in which cadre, he is presently discharging duties.

7. When things stood thus, it is alleged that the first respondent, by letter dated 08.09.2016, directed the Directorate of Tribal Welfare and SC/ST Vigilance Cell to conduct an enquiry qua the community certificate issued to the petitioner. Even though the petitioner submitted a reply, through his counsel on

19.10.2016, specifically stating that the communal status of the petitioner has reached finality in the light of the orders passed by this Court in the earlier writ petitions, referred supra, the second respondent sent a communication dated 29.08.2017, directing the petitioner to appear for an enquiry.

8. In the above backdrop, the present writ petition is filed for the relief stated supra.

9. The main thrust of the argument advanced by the learned counsel for the petitioner is that Kondalakulam is colloquial usage of Kondareddis community and both are referable to the same caste. To buttress the said plea, he referred to the decisions of this Court in umpteen number of cases of this Court. He further contended that the action initiated by the State Level Scrutiny Committee runs counter to the orders passed by this Court in his own case in W.P.Nos.14712 and 8982 of 1992, which had attained finality years back.

10. The learned Government Advocate appearing on behalf of the respondent authorities justified the decision taken by the State Level Scrutiny Committee and reiterated the reasons that weighed the Committee in referring the matter to the Vigilance Cell for verification of the communal status of the petitioner.

11. We have heard Mr.Yogesh Kannadasan, learned counsel appearing for the petitioner and Mr.S.N.Parthasarathy, learned Government Advocate appearing for the respondents and perused the documents placed on record.

12. Anent the communal status of the petitioner, admittedly, this Court by order dated 13.10.1999 in W.P.No.14712 of 1992, after referring to earlier decisions, emphatically held that "KondalaKulam and Konda Reddy are one and the same". The respondents therein have acted upon the directions issued in the above said writ petition as also the order passed on 29.11.1999 in W.P.No.8982 of 1992 without demur and as a sequitur, the said orders have become final and the respondents are bound to follow them strict sensu.

13. That apart, the Hon'ble Division Bench of this Court, by judgment dated 25.06.2002 passed in W.A.No.1576 of 2002 held as under:

"The issue raised in this writ appeal is as to whether the communities 'Kondalakulam' and 'Konda Reddy' are one and the same. The said issue has already come up therefore a Division Bench of this Court in W.P.No.13979 of 1998 and it has been held that both the communities are one and the same."

14. In M.D.Rekha v. The Tamil Nadu State Level Scrutiny Committee [Order dated 08.11.2017 passed in W.P.Nos.22955 of 2013, etc.], the Hon'ble Division Bench, after referring to a catena of decisions on this issue, held that the letter No.12018/12/85-SCD (R.Cell), dated 20.04.1987 from the Ministry of Welfare, New Delhi, Government of India, addressed to the Deputy Secretary to Government Social Welfare Department, Madras, is merely a letter issued by the Government of India, and not a document with the assent of the President of India and that Konthalakulam community and Kondareddis community are one and the same. It was further held that the said administrative instructions of the Government would not have the effect of nullifying the law laid down by this Hon'ble Court.

15. That apart, even prior to the issuance of the said communication dated 20.04.1987, this Court had categorically held in a series of decisions starting from the orders in WP.Nos.2197 and 3462 of 1983, W.P.No.3363 of 1983, dated 31.07.1984, W.P.No.12134 of 1983 and 8324 of 1984, dated 16.10.1984, W.P.No.14712 of 1992, dated 13.10.1999, and the like, that 'Kondalakulam' would refer only to 'Konda Reddy' community. Further, in Purushothama Reddy v. The Revenue Divisional Officer, 1994 (1) MLJ 1995, it was held that "reliance made upon the administrative direction of the Government to hold that 'Kondalakulam' is different from 'Konda Reddy' will not hold good since the law laid by this Court is different". The said view fortifies the case of the petitioner and we do not think it just and proper to take a different view than the one settled by this Hon'ble Court years back.

16. The ratio laid down in the decisions, referred supra, squarely applies to the issue involved in this case. Therefore, the reference made by the first respondent to the second respondent and the consequential notice issued by the second respondent to verify the communal status of the petitioner is, in our considered opinion, uncalled for.

17. The writ petition is, therefore, allowed and the proceedings in Letter No.11409/CV-4(1)2014-2, dated 08.09.2016 passed by the first respondent and consequential proceedings in Na.Ka.No.72.SJ&HR/2017, dated 29.08.2017 passed by the second respondent are set aside. No costs. Consequently, W.M.P.No.30152 of 2017 is closed.

-s/d-

Assistant Registrar (CS-IV)

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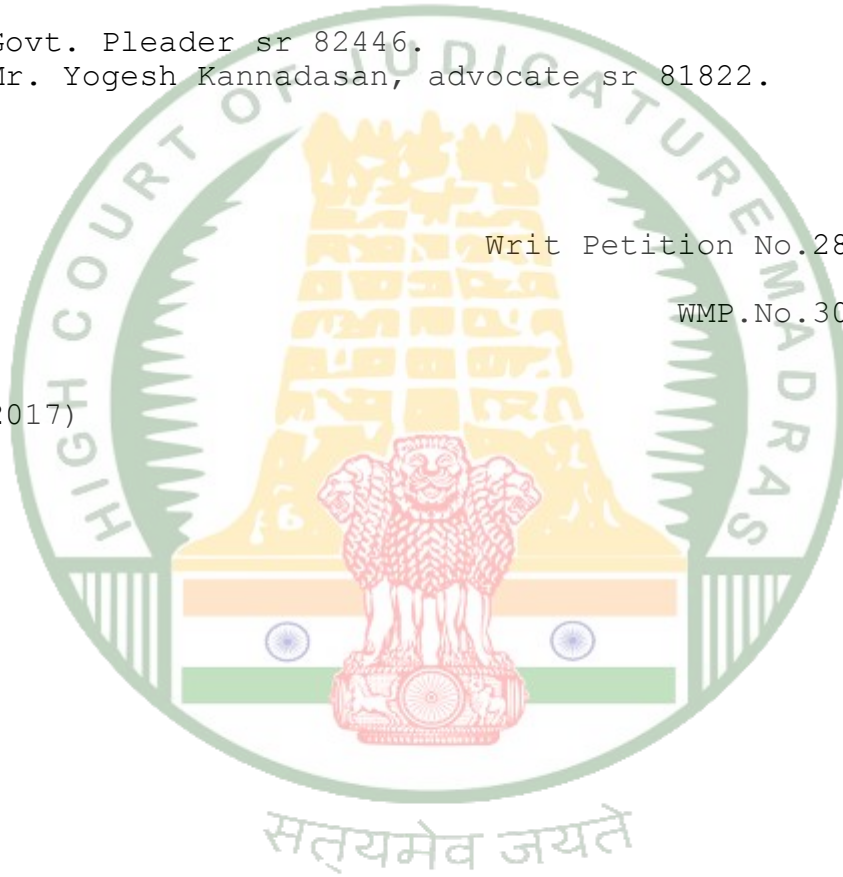
Sub-Assistant Registrar

To

1. The Chairman and Secretary to Government,
Tamil Nadu State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Fort St. George, Chennai - 600 009.
 2. The Deputy Superintendent of Police,
O/o. Deputy Superintendent of Police,
Social Justice and Human Rights Division,
Tiruvallur, Tiruvallur District.
- +1 CC to Govt. Pleader sr 82446.
+1 CC to Mr. Yogesh Kannadasan, advocate sr 81822.

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SP(21/12/2017)



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