

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2017

CORAM :

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

Writ Petition Nos.1840 and 24721 of 2017

K.Yogeshkumar

.. Petitioner
in both cases

Vs

1.The Secretary,
Tamil Nadu Public Service Commission,
Chennai - 600 002.

.. 1st respondent
in WP.1840/2017
and 2nd respondent
in WP.24721/2017

2.The Chairman,
State Level Scrutiny Committee and
the Principal Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai - 600 009.

..2nd respondent
in WP.1840/2017
and 1st respondent
in WP.24721/2017

PRAYER in W.P.No.1840 of 2017: Petition under Article 226 of the Constitution of India to issue a writ of Mandamus to direct respondent No.1 to declare the result of the petitioner in the Combined Engineering Service Examination notified vide advertisement No.247, dated 14.7.2010 of the first respondent.

PRAYER in W.P.No.24721 of 2017: Petition under Article 226 of the Constitution of India to issue a writ of Mandamus to direct the first respondent to complete the verification of the community certificate of the petitioner dated 24.10.2007 issued by the Revenue Divisional Officer, Ranipet to the effect that the petitioner belongs to "Kurumans" Community, which is a Scheduled Tribe within a reasonable time.

For Petitioner : Mr.M.Radhakrishnan

For Respondents : Mr.S.N.Parthasarathy
Government Advocate
For Scrutiny Committee

Ms.C.N.G.Niraimathi
For TNPSC

COMMON ORDER

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

In W.P.No.1840 of 2017, the petitioner has prayed for issuance of a writ of Mandamus to direct the Tamil Nadu Public Service Commission (for brevity, "the TNPSC") to declare the result of the petitioner in the Combined Engineering Service Examination notified vide advertisement No.247, dated 14.7.2010 of the TNPSC, and in W.P.No.24721 of 2017, the petitioner prayed for a direction to the State Level Scrutiny Committee (for brevity, "the Scrutiny Committee") to complete the verification of his community certificate dated 24.10.2007 issued by the Revenue Divisional Officer, Ranipet, to the effect that he belongs to "Kurumans" Community, which is a Scheduled Tribe within a reasonable time.

2. The facts in a nutshell are as under: According to the affidavit, pursuant to the advertisement issued by the TNPSC for direct recruitment to the post of Assistant Engineer (Civil) and various other posts included in the Combined Engineering Service Examination, he applied for one of the posts reserved for Schedule Tribes; appeared for examination and was invited for certificate verification by the TNPSC.

3. It is the claim of the petitioner that the stage of certificate verification is final, to wit, before the issuance of a letter of appointment, and he produced all the documents, including his community certificate dated 24.10.2007, which was issued by the Revenue Divisional Officer, Ranipet, to the effect that he belongs to "Kurumans" Community, which is a Scheduled Tribe. The petitioner also produced the copy of the proceedings of the District Vigilance Committee, Vellore, dated 17.1.2006, declaring that his father belongs to Kurumans Schedule Tribe Community. It is alleged that since his father is holding a valid community certificate, no further verification of his communal status is required.

4. It is the case of the petitioner that only during October, 2016, he was informed that due to the pendency of verification of his community certificate by the Scrutiny Committee, his result was not declared by the TNPSC. In such

backdrop, the petitioner has filed W.P.No.1840 of 2017 for a direction on the TNPSC to declare his result.

5. Exasperated by the delay of six years in completing the verification of the communal status of the petitioner, the petitioner has filed W.P.No.24721 of 2017 seeking to direct the Scrutiny Committee to complete the verification of the community certificate of the petitioner expeditiously.

6. The main thrust of the argument advanced by the learned counsel for the petitioner is that inasmuch as the father of the petitioner has been granted a community certificate to the effect that he belongs to "Kurumans" Community, which is a Scheduled Tribe, by the Three Member District Vigilance Committee, Vellore, on 17.1.2006, and the same is valid as on date, the act of the TNPSC in withholding his result and Scrutiny Committee in not completing the verification of the communal status of the petitioner for over six years is arbitrary and unreasonable.

7. He further contended that the stage of certificate verification is final, to wit, before issuance of the appointment order, and the TNPSC having satisfied with the eligibility of the petitioner on merits, should not have delayed his appointment for want of verification of his communal status, more particularly, when the community certificates issued to him and his father are valid as on date.

8. Per contra, the learned counsel appearing on behalf of the TNPSC submitted that the stage of certificate verification is an intermediate stage before oral test and not the final stage in the selection process and when as per the rule of reservation, the petitioner claimed that he belongs to Scheduled Tribe Community and applied for the vacancy notified for the said community, it is incumbent on them to send the certificate for verification and that the TNPSC has followed the extant procedure *stricto sensu*.

9. It is further contended that the petitioner secured only 109.50 marks in the examination, which does not fall within the zone of consideration, and, therefore, he cannot be considered for selection and appointment, and the fact of non-shortlisting the name of the petitioner for oral test justifies their stand that the petitioner had not come within the zone of consideration for the oral test.

10. The learned Government Advocate appearing on behalf of the Scrutiny Committee, despite specific directions issued by this Court on more than one occasion, has not produced the report of the Deputy Superintendent of Police, Social Justice/Human Rights of Vellore District, and only sought

further time for completion of the vigilance enquiry.

11. We heard Mr.M.Radhakrishnan, learned counsel for the petitioner, Mr.S.N.Parthasarathy, learned Government Advocate for Scrutiny Committee and Ms.C.N.G.Niraimathi, learned counsel for TNPSC and perused the documents available on record.

12. It is beyond any cavil that the petitioner had obtained a community certificate way back on 24.10.2007 from the Revenue Divisional Officer, Ranipet, Vellore District, to the effect that he belongs to Hindu Kurumans Community, which is a Scheduled Tribe Community. That apart, a Three Member District Vigilance Committee, Vellore, by proceedings dated 17.1.2006, qua the communal status of the petitioner's father declared that he belongs to Kurumans Schedule Tribe Community. It is a matter of record that the said community certificates have not been set aside in a manner known to law till date.

13. When the petitioner based on such community certificate applied for recruitment for one of the posts included in the Combined Engineering Service Examination specifically earmarked for Scheduled Tribe Community, the TNPSC sent the community certificate of the petitioner for verification by the Scrutiny Committee.

14. It is the specific case of the TNPSC that the verification of community certificate of a candidate is an intermediate stage, after the written examination and before the oral test. When such is the stand taken by the TNPSC in respect of all the candidates, we find no earthly reason to accept the plea of the learned counsel for the petitioner that certificate verification is the final stage of selection and the same will be followed by issuance of appointment order. The TNPSC is empowered to send the community certificate for verification by the competent authority and such reference does not warrant any interference. However, insofar as the non declaration of result of the petitioner is concerned and the stage at which the community certificate can be referred to the competent authority, it would be apposite to refer to a Full Bench decision of this Court in The Tamil Nadu Public Service Commission v. R. Manikandan, 2011 (5) CTC 1, wherein it has been held as under:

"27. In that view of the matter and for the reasons discussed, we answer the reference in the following manner:

A) The scrutiny of the genuineness of the Scheduled Caste certificates can be made only by District Level Vigilance Committee constituted by the State Government in terms of G.O. (2D) No. 108, Adi Dravidar and Tribal Welfare Department, dated 12.09.2007;

B) The scrutiny of the genuineness of the Scheduled Tribe certificates can be made only by State Level Scrutiny Committee constituted by the State Government in terms of G.O. (2D) No. 108, Adi Dravidar and Tribal Welfare Department, dated 12.09.2007;

C) Such scrutiny of certificates, be it Scheduled Caste or Scheduled Tribe, cannot be made by the Tamil Nadu Public Service Commission;

D) For the purpose of processing the application and allowing a candidate to take part in the written examination and the consequential oral examination, the Service Commission would be entitled to verify as to whether the Candidate has produced a Caste Verification Certificate obtained from the respective Committees and in the event such certificate is produced, the selection of the candidate cannot be withheld and the name should be forwarded to the appointing authority for making appointments;

E) In the event a candidate does not produce such a Caste Verification Certificate and in the event he is selected, his name cannot be withheld and can be forwarded for appointment with a clear indication that the selection is subject to the verification of the community certificate;

F) In terms of paragraphs 10 and 15 of the directions of the Apex Court in Kumari Madhuri Patil's case, which we have extracted, a candidate who is selected and appointed subject to verification of the community certificate, shall not claim any benefit of such selection and in case if the certificate is found to be false, the candidate should consequently lose his employment."

15. In the light of the decision, supra, it is explicitly clear that the TNPSC has no jurisdiction to verify the information given in the community certificate and the TNPSC cannot withhold the results on the ground of verification of information given in the community certificate, which can be gone into only by the Committee constituted for the purpose. The TNPSC has to issue appointment order, if the candidate is otherwise qualified on merits, stating that the appointment will be subject to verification of the community status and then send the community certificate for verification before the competent authority.

16. In the case on hand, the TNPSC without declaring the result of the petitioner had referred the matter to the Scrutiny Committee, which is contrary to the law laid down by the Hon'ble Full Bench of this Court, supra.

17. In the counter affidavit filed by the TNPSC, it is specifically pleaded that the petitioner secured only 109.50 marks in the written examination and he had not come within the zone of admission to oral test, however, the result of the petitioner, admittedly, has not been declared till date.

18. This Court, by order dated 27.10.2017, granted four weeks' time to the Deputy Superintendent of Police, Social Justice/Human Rights of Vellore District, to complete the vigilance enquiry and file a report before this Court. However, till date the said authority had, for reasons best known to it, not filed the report as directed. This Court is at a loss to understand as to why the authority is taking over six years' time to verify the community certificate of the petitioner, when he has been issued such certificate by a competent authority and, when his father is also holding a valid community certificate.

19. On an overall conspectus of the facts of the matter, we issue the following directions:

i. The TNPSC is directed to declare the result of the petitioner in the Combined Engineering Service Examination within one week from the date of receipt of a copy of this order, without awaiting the report of the Scrutiny Committee on the communal status of the petitioner;

ii. The Deputy Superintendent of Police, Social Justice/Human Rights of Vellore District is granted two weeks time from the date of receipt of a copy of this order to submit his report to the Scrutiny Committee qua the communal status of the petitioner; and

iii. Within two weeks therefrom, the Scrutiny Committee is directed to conclude the proceedings and submit its report to the TNPSC.

सत्यमेव जयते

These writ petitions are disposed of accordingly. No costs.

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Sd/-
Assistant Registrar(CS III)

//True copy//

Sub Assistant Registrar

vs

To

- 1.The Secretary,
Tamil Nadu Public Service Commission,
Chennai - 600 002.
- 2.The Chairman,
State Level Scrutiny Committee and
the Principal Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai - 600 009.

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GN(17/01/2018)



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