

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 05.04.2017
CORAM
THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr. JUSTICE M.V.MURALIDARAN

W.P.No.33560 of 2015 and
M.P.Nos.1 & 2 of 2015

C.Nagarathinam

... Petitioner

Vs.

1. The State of Tamil Nadu
rep. by its Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Fort St.George, Chennai - 9.

2. The Tamil Nadu State Level Scrutiny
Committee,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maaligai
Secretariat, Chennai - 9.

... Respondents

PRAYER: Writ Petition filed under Article 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.11843/CV-4(2)/2014-12, dated
31.08.2015.

For Petitioner : Mr.Vijaynarayan, Senior Counsel
for Ms.V.J.Latha

For Respondents: Mr.K.Venkatramani
Additional Advocate General
Assisted by
Mr.A.Kumar, Special Govt.Pleader

O R D E R

K.K.SASIDHARAN, J.

The proceedings of the Tamil Nadu State Level Scrutiny
Committee, declining the community status claim made by the
petitioner and directing cancellation of his Scheduled Tribe
Certificate is under challenge in this writ petition, primarily
on the ground that the documents produced by him were not taken
into consideration.

2. The petitioner obtained a Community Certificate from the Deputy Tahsildar, Mettur, Salem District, on 24 May, 1978, indicating that he belongs to Scheduled Tribe Community. The petitioner on the strength of the said Community Certificate joined the services of Syndicate Bank. The post was reserved for candidates from Scheduled Tribe community.

3. The Community Certificate of the petitioner was cancelled by the District Collector, Salem by order dated 22 January, 1991. The order was challenged by the petitioner in W.P.No.1764 of 1991. This Court, while setting aside the order directed the District Collector to pass fresh orders after furnishing the report submitted by the Revenue Divisional Officer. Subsequently, the petitioner moved this Court in W.P.No.12869 of 1999 and the same resulted in directing the State Level Scrutiny Committee to conduct enquiry.

4. The State Level Scrutiny Committee called for a report from the Vigilance Cell, Salem. It is the grievance of the petitioner that none of the documents produced by him were considered by the District Vigilance Cell. Thereafter, enquiry was conducted by the State Level Scrutiny Committee. The committee, without addressing the issue raised by the petitioner negatived his claim. The order is under challenge on multiple grounds.

5. The learned Senior Counsel for the petitioner contended that there was no attempt made by the State Level Scrutiny Committee to consider the veracity of the documents produced by the petitioner. According to the learned Senior Counsel, there was a categorical finding given by this court in W.P.No.14821 of 1995 and W.P.No.26974 of 2009 holding that Thiru.Vijayaraghavan, brother of the petitioner belongs to Scheduled Tribe. Even the said order was not taken note of by the State Level Scrutiny Committee. The learned Senior Counsel contended that the order is liable to be set aside on the ground of non-application of mind.

6. The learned Additional Advocate General supported the order passed by the State Level Scrutiny Committee. The learned Additional Advocate General contended that the proceedings before the scrutiny Committee is a summary proceeding and the order is nothing but administrative in nature. The Committee considered the available documents and arrived at a clear finding with regard to the community status of the petitioner.

7. The petitioner secured employment in Syndicate Bank against the post reserved for Scheduled Tribe. The appointment was on 27 February, 1984. The certificate was subjected to verification by the District Collector. The District Collector found that the petitioner made a false claim regarding community status. The certificate was therefore cancelled. The said order was challenged before this Court. This Court directed the District Collector to consider the matter afresh. There were subsequent proceedings relating to the community status claimed by the petitioner. The State Level Scrutiny Committee ultimately took up the proceedings.

8. The order passed by the State Level Scrutiny Committee does not contain any material evidencing consideration of the documents produced by the petitioner. The State Level Scrutiny Committee simply stated that after carefully observing the available records and documents, they have arrived at a decision that the petitioner does not belong to 'Konda Reddis', which is a notified Schedule Tribe Community.

9. The petitioner produced various documents before this Court to demonstrate that he belongs to Konda Reddis Community. It is not clear as to whether all these documents were actually produced before the State Level Scrutiny Committee. It is true that there is a reference in the order with respect to some of the documents produced by the petitioner. In any case, there was no attempt made by the State Level Scrutiny Committee to consider the materials produced by the petitioner before rejecting his claim for community status. We are therefore of the view that the matter requires fresh consideration by the State Level Scrutiny Committee.

10. The District Collector initially passed the order dated 22 January, 1991, cancelling the community certificate issued to the petitioner. Thereafter, litigation started before this Court. There is no point in calling upon the petitioner by the State Level Scrutiny Committee to produce documents. We therefore directed the learned Senior Counsel for the petitioner to produce the documents relied on by the petitioner before this Court. The learned counsel on record for the petitioner produced the documents. The documents were handed over to Thiru.D.Anandan, Assistant Section Officer, State Level Scrutiny Committee, who is present in Court on acknowledgement.

11. The State Level Scrutiny Committee is directed to consider the entire documents and arrive at a decision on merits. In case, the Committee is of the view that a report should be called for from the District Vigilance cell, it is open to them to refer the matter. However, we make it clear that in case statements are recorded by the District Vigilance Committee, necessarily, those statements should be given to the petitioner and he should be given opportunity to cross examine the witnesses. The report submitted by the District level Vigilance committee along with the enclosures should be given to the petitioner and his response should also be taken before passing final orders by the State Level Scrutiny Committee. The petitioner is directed to co-operate with the State Level Scrutiny Committee for an early disposal of the matter. There shall be a further direction to the State Level Scrutiny Committee to conclude the proceedings, within a period of four months from the date of receipt of a copy of this order.

12. The writ petition is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

svki

To

1. The Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Fort St.George, Chennai - 9.
2. The Tamil Nadu State Level Scrutiny
Committee,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai - 9.

+1 cc to Government Pleader sr 20572
+1 cc to Ms.V.J.Latha Advocate sr 20709

W.P.No.33560 of 2015

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