

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2017

CORAM

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

W.P. No.4408 of 2015
and M.P.Nos.1 to 3 of 2015

R.Manimaran
Deputy Chief Mechanical Engineer/C&W/HQ,
Head Quarters,
Southern Railway,
Chennai - 3.

...Petitioner

Vs.

1. The State Level Scrutiny Committee,
Rep. By the Chairman,
Secretariat, Chennai - 600 009.
2. The General Manager,
Southern Railway,
Park Town, Chennai - 3.
3. The Revenue Divisional Officer,
Trichy.
4. J.Nagesh

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus to call for the records on the file of the 1st respondent in connection with the order passed in Proc. No.11471/CVIII/2012, dated 03.12.2014 and quash the same and direct the 1st respondent to declare that the 4th respondent does not belong to Kattunaicken Community.

For Petitioner : Mr. R.Singaravelan
Senior Counsel
for Ms.M.Srividhya

For R1 & R3 : Mr. K.Venkatramani,
Additional Advocate General
Assisted by Mr. A.Kumar,
Special Government Pleader

For R2 : Mr. V.G.Sureshkumar

For R4 : L.Chandrakumar for R4

O R D E R

K.K. SASIDHARAN, J.

This writ petition is directed against the order dated 03 December 2014, whereby and whereunder, the Tamil Nadu State Level Scrutiny Committee confirmed the community status of the fourth respondent.

2. The fourth respondent obtained a Community Certificate indicating that he belongs to Kattunayakan Community, which is declared as a Scheduled Tribe. The fourth respondent on the strength of the said Community Certificate, secured employment in Southern Railway. There were proceedings relating to his community status earlier.

3. In view of the limited issue before us as to whether the State Level Scrutiny Committee has followed the procedure indicated by the Hon'ble Supreme Court in Kumari Madhuri Patil v. Additional Commissioner, Tribal Development and others [(1994) 6 SCC 241] and subsequently in Dayaram v. Sudhir Batham [(2012) 1 SCC 333], we are not narrating the entire background facts.

4. The order passed by the Revenue Divisional Officer cancelling the Community Certificate of the fourth respondent was put in issue before this Court in W.P.No.19073 of 2012. This Court, by order dated 06 January 2014 set aside the order and directed the State Level Scrutiny Committee to decide the community status of the petitioner, after conducting due enquiry. Thereafter, the matter was taken up by the State Level Scrutiny Committee.

5. The State Level Scrutiny Committee after hearing the fourth respondent passed an order indicating that he belongs to Kattunayakan Community. The order is under challenge at the

instance of an employee of the Southern Railway, who has been taking up the matter with the authorities and before the Courts complaining that the fourth respondent obtained a false Community Certificate and secured employment in Southern Railway against the post reserved for Scheduled Tribe.

6. The learned Senior Counsel for the petitioner by placing reliance on several documents available on record contended that notwithstanding the string of documents evidencing that the petitioner does not belong to Kattunayakan Community, the Scrutiny Committee recorded a finding regarding his community status. According to the learned Senior Counsel, the State Level Scrutiny Committee failed to follow the Government Order in G.O.(Ms) No.106 Adi Dravidar and Tribal Welfare (CV-I) Department dated 15 October 2012, while conducting enquiry. The learned Senior Counsel further contended that the matter was not referred to the District Vigilance Cell. In short, non consideration of the documents available on record and the failure to refer the matter to the District Vigilance Cell are taken as primary grounds to challenge the order passed by the State Level Scrutiny Committee.

7. The learned Additional Advocate General fairly submitted that there was no reference to the District Vigilance Cell by the State Level Scrutiny Committee before deciding the community status of the petitioner.

8. The learned counsel for the fourth respondent justified the impugned order passed by the State Level Scrutiny Committee. According to the learned counsel, the father of the petitioner was issued with a Community Certificate declaring that he belongs to Scheduled Tribe. Similarly, a Certificate was issued way back on 07 July 1954 indicating that the petitioner belongs to Scheduled Tribe. Those Certificates were issued by the authority competent to issue certificates at that point of time. According to the learned counsel, the petitioner has no locus standi to challenge the community status of the fourth respondent.

9. The only question that arises for consideration is as to whether the State Level Scrutiny Committee was correct in passing an order regarding the community status of the fourth respondent without considering the documents available on record and without referring the matter to the District Level Vigilance Cell.

10. The procedure for the conduct of enquiry with regard to the community status was indicated by the Supreme Court in Kumari Madhuri Patil v. Additional Commissioner, Tribal Development and others [(1994) 6 SCC 241]. The Supreme Court in

the said judgment and more particularly, in sub paragraph (5) of Paragraph 13 indicated that each Directorate shall constitute a Vigilance Cell consisting of Senior Deputy Superintendent of Police in over-all charge and such number of Police Inspectors to investigate into the social status claims. The Supreme Court made it clear that the Vigilance Cell should personally verify and collect all the facts of the social status claimed by the candidate or the parent, as the case may be. Similarly, it was indicated that Vigilance Cell should also examine the school records, birth registration etc. for the purpose of deciding the claim regarding the community status. In the subject case, no such effort was taken by the State Level Scrutiny Committee. Similarly, there is no indication that all the documents available on record were considered by the State Level Scrutiny Committee before deciding the community status of the fourth respondent. We are, therefore, of the view that the impugned order is liable to be set aside.

11. In the result, the order dated 03 December 2014 is set aside. The issue is remitted to the State Level Scrutiny Committee for fresh consideration.

12. The State Level Scrutiny Committee is directed to refer the matter to the District Level Vigilance Cell for conducting investigation as indicated in the judgment in Kumari Madhuri Patil's case. In case, the District Vigilance Cell examines witnesses and records their statements, necessarily, the fourth respondent should be given an opportunity to cross examine such witnesses. The entire report along with the documents should be furnished to the fourth respondent so as to enable him to submit his response. In short, the principles of natural justice should be followed in all respects by the State Level Scrutiny Committee before taking a decision in the matter. Such exercise shall be completed within a period of four months from the date of receipt of a copy of this order.

The writ petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

1. The Chairman
The State Level Scrutiny Committee,
Secretariat, Chennai - 600 009.

2. The General Manager,
Southern Railway,
Park Town, Chennai - 3.

3. The Revenue Divisional Officer, Trichy.

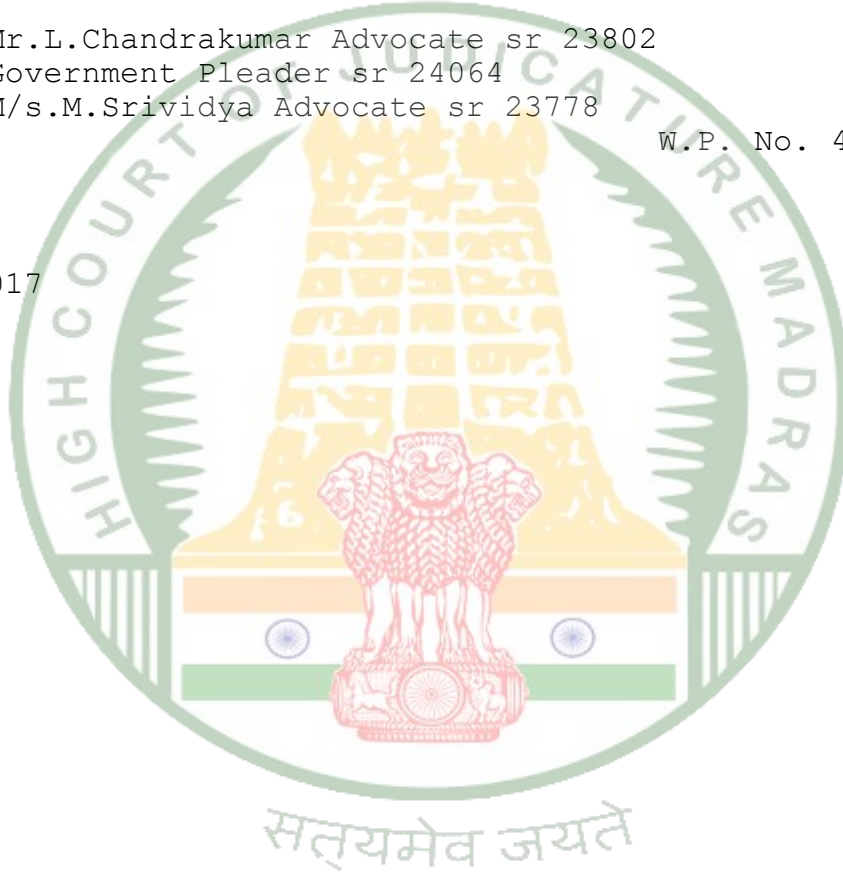
+1 cc to Mr.L.Chandrakumar Advocate sr 23802

+1 cc to Government Pleader sr 24064

+1 cc to M/s.M.Srividya Advocate sr 23778

W.P. No. 4408 of 2015

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