

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2017

CORAM

THE HONOURABLE Mr.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr.JUSTICE M.V.MURALIDARAN

W.P.No.8323 of 2015
and
MP No.2 of 2015

K.R.Uma Ramani Deva Sena ... Petitioner

Vs.

1.The Chairman,
State Level Scrutiny Committee
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maligai,
Secretariat, Chennai -9.

2.The Chairman
Pallava Grama Bank,
No.6, Yercaud Road,
Salem -7.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, calling for the records of the first respondent in its proceedings No.5341/CV/4/2011-14 dated 13.03.2015 and quash the same.

For Petitioner : Mr.V.Vjay Shankar

For R1 : Mr.K.Dhananjayan
Special Government Pleader for R1

For R2 : No appearance

O R D E R

K.K.SASIDHARAN, J.

The challenge in this writ petition is to the order dated 13 March, 2015, on the file of the Tamil Nadu State Level Scrutiny Committee, rejecting the community status claim made by the petitioner.

2. The petitioner obtained a community certificate from the local panchayat on 12 September, 1978, indicating that she

belongs to Konda Reddy community, which is a notified Scheduled Tribe Community. Subsequently, she obtained another certificate from the Revenue Divisional Officer on 27 October, 1988. The petitioner, on the strength of the community certificates joined Pallava Grama Bank as a Clerk against a reserved post. Her Community Certificate was cancelled by the Revenue Divisional Officer. The order was challenged before this Court. Since the District Level Vigilance Committee was not competent to consider the community status claim, the petitioner filed writ petition in W.P.No.6572 of 2003. The High Court, by order dated 15 March, 2011, directed the District Level Vigilance Committee to transmit the papers to the State Level Scrutiny Committee for verification. The subsequent order passed by the State Level Scrutiny Committee was challenged in W.P.No.3385 of 2014 on the ground that mandatory enquiry was not conducted through Vigilance Cell. The High Court, by order dated 19 February, 2014 set aside the order dated 29 January, 2014 and directed the State Level Scrutiny Committee to pass fresh orders, after taking a report from the Vigilance Cell.

3. It is the grievance of the petitioner that the Vigilance Cell collected documents and recorded statements behind her back and those materials were used by the State Level Scrutiny Committee to reject her community claim. The impugned order passed by the State Level Scrutiny Committee is challenged on multiple grounds including violation of principles of natural justice.

4. The counter affidavit filed by the State Level Scrutiny Committee indicates that a decision was taken on a careful consideration of the evidence produced by the petitioner and the report submitted by the Vigilance Cell.

5. The learned counsel for the petitioner contended that the Vigilance Cell recorded statements of witnesses without giving opportunity to the petitioner for cross examination. The 126 pages report submitted by the Vigilance Cell was not given to the petitioner. The learned counsel, therefore, contended that the process undertaken by the first respondent was not in accordance with the law laid down by the Hon'ble Supreme Court in *Kumari Madhuri Patil v. Additional Commissioner, Tribal Development and others* [(1994) 6 SCC 241] and reiterated later in *Dayaram v. Sudhir Batham* [2012 1 SCC 333].

6. We have also heard the learned Special Government Pleader on behalf of the respondents.

7. The order impugned in the writ petition contained the background facts relating to the order passed by the statutory committees and the litigations initiated by the petitioner. The State Level Scrutiny Committee referred the case to the Vigilance Cell. The Vigilance Cell collected documents and

records from various sources and reported that the petitioner does not belong to Konda Reddy Community.

8. There is nothing on record to show that all those statements were recorded in the presence of the petitioner. There was no opportunity given to the petitioner to cross examine the witnesses examined by the Vigilance Cell. There was no action taken by the Vigilance Cell or the State Level Scrutiny Committee to give the documents submitted after enquiry. Since no opportunity was given to the petitioner to cross examine the witnesses, necessarily, the impugned order requires to be set aside.

9. In the result, the order dated 13 March, 2015 is set aside. The matter is remitted to the State Level Scrutiny Committee for fresh consideration. The Committee is directed to furnish all the documents to the petitioner, so as to enable her to offer her response. In case, the Vigilance Cell has examined witnesses and opportunity was not given to the petitioner to cross examine witnesses, necessarily those witnesses should be summoned for cross examination by the petitioner. There is no need to send the matter back for examining the witnesses. It would suffice if summons is issued to the witnesses for appearance before the State Level Committee, so as to enable the petitioner to cross examine them with reference to the statements given by them earlier. In case, the Committee is of the view that the witnesses need to be examined afresh, it is open to them to take such a course. However, it must be ensured that the witnesses are examined in the presence of the petitioner and she shall be given an opportunity to cross examine them in the light of the statements given by them. In any case, the Committee shall see that principles of natural justice is followed in all respects.

10. Since the matter is pending for long, the State Level Scrutiny Committee is directed to conclude the proceedings as expeditiously as possible and in any case, within a period of four months from the date of receipt of a copy of this order. It is needless to point out that the petitioner shall co-operate with the Committee for an early disposal of the matter.

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

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

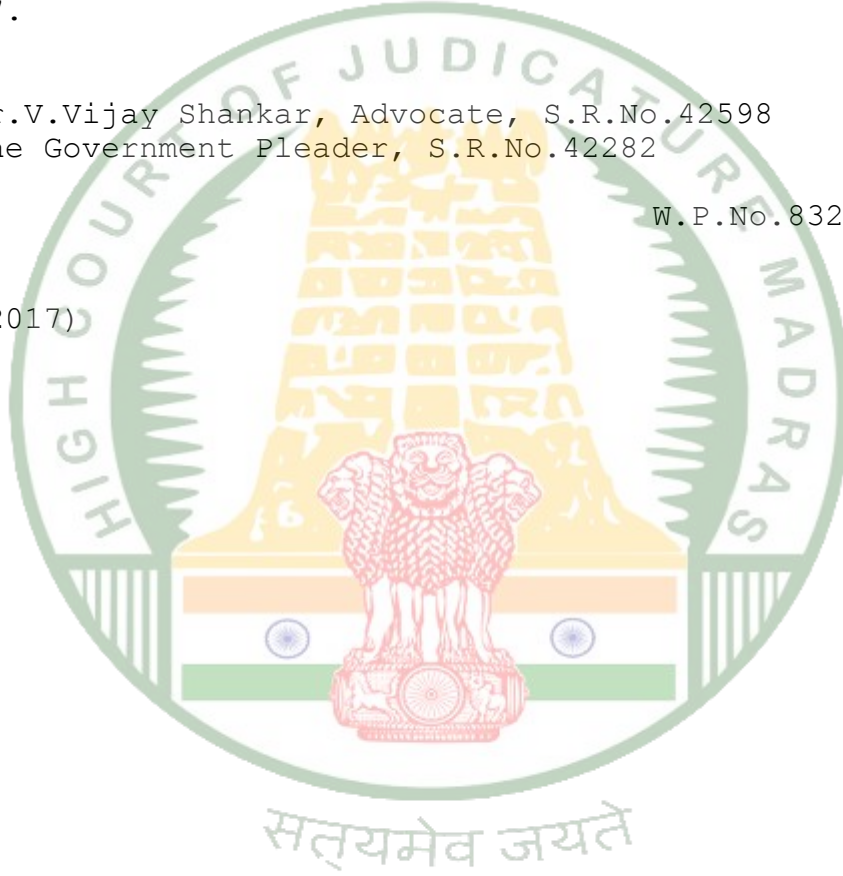
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+1cc to Mr.V.Vijay Shankar, Advocate, S.R.No.42598
+1cc to the Government Pleader, S.R.No.42282

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SS(CO)
CA(03/07/2017)



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