

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2017

CORAM:

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

W.P. No.8688 of 2015
and M.P.Nos.2 & 3 of 2015

S. Radha Krishnan ...Petitioner
Vs.

1. State of Tamil Nadu rep. by its
Secretary to Government,
Adi Dravidar and Tribal Welfare (CV2) Department,
Secretariat, Chennai-600 009.
2. State Level Scrutiny Committee,
Rep. by its Chairman and Secretary to Government,
Adi Dravidar and Tribal Welfare (CV2) Department,
Secretariat, Chennai-600 009.
3. The Chairman and Managing Director,
Indian Bank,
Corporate Office,
Avvai Shanmugam Salai,
Chennai-600 014.Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari calling for the records relating to the proceedings of the Tamil Nadu State Level Scrutiny Committee in Proceedings No.9106/CV-4/2010-23 dated 19.03.2015 on the file of the second respondent and quash the same.

For Petitioner : Mr.S. Doraisamy
For R1 and R2 : Mr. A. Kumar
Special Government Pleader
For R3 : Mrs.Rita Chandrasekar
for M/s Aiyar & Dolia

O R D E R

K.K. SASIDHARAN, J.

This writ petition challenges the order dated 19 March 2015 on the file of the State Level Scrutiny Committee, rejecting the claim made by the petitioner that he belongs to Konda Reddy

Community, which is notified as a Scheduled Tribe.

2. The petitioner, on the basis of the Community Certificate issued by the Tahsildar, Salem indicating that he belongs to Konda Reddy Community, secured employment in Indian Bank. The Certificate was referred to the District Collector, Salem for verification. The District Vigilance Committee cancelled the Certificate by order dated 29 December 2000. The order was challenged in W.P.No.446 of 2001. This Court, dismissed the writ petition by order dated 27 July 2001. The order passed by the Writ Court was challenged in W.A.No.255 of 2001. The Division Bench, by judgment dated 26 July 2005, allowed the Writ Appeal and directed the District Vigilance Committee to conduct enquiry afresh. The notice issued by the Vigilance Committee was challenged by the petitioner in W.P.No.48754 of 2006. The High Court, by order dated 21 April 2013, set aside the proceedings initiated by the District Level Vigilance Committee and directed the State Level Scrutiny Committee to consider the matter afresh.

3. The State Level Scrutiny Committee referred the matter to the District Level Vigilance Committee for investigation. The Vigilance Committee recorded the statements of the petitioner, his father and others in the locality. The State Level Scrutiny Committee, on receipt of the report submitted by the District Vigilance Committee, called upon the petitioner to show cause as to why the issue should not be decided against him. The State Level Scrutiny Committee appears to have forwarded the report submitted by the Vigilance Committee to the petitioner. The petitioner, on appearance before the State Level Scrutiny Committee contended that he belongs to Konda Reddy Community and that the adverse finding recorded by the District Vigilance Committee was not correct. The Scrutiny Committee notwithstanding the objection given by the petitioner arrived at a decision that the petitioner does not belong to Konda Reddy Community. The order is under challenge in this writ petition.

4. The learned counsel for the petitioner contended that the District Vigilance Committee examined witnesses to arrive at a finding that the petitioner does not belong to Konda Reddy Community. According to the learned counsel, discreet enquiry was conducted behind the back of the petitioner and the materials collected after such enquiry were used to arrive at a finding against him. In short, it is the contention of the learned counsel for the petitioner that principles of natural justice has been violated by the State Level Scrutiny Committee.

5. The learned Special Government Pleader supported the order passed by the State Level Scrutiny Committee.

6. We have also heard the learned counsel for the Bank.

7. The petitioner secured employment in Indian Bank on the strength of a Community Certificate issued by the Tahsildar, Salem. The appointment was against a post reserved for Scheduled Tribe. The Bank referred the Community Certificate to the District Collector for enquiry. The petitioner challenged the proceedings before this Court on multiple occasions and ultimately, the issue was referred to the State Level Scrutiny Committee.

8. The State Level Scrutiny Committee by following the direction given by the Supreme Court in *Kumari Madhuri Patil v. Additional Commissioner, Tribal Development and others* [(1994) 6 SCC 241] referred the matter to the Vigilance Cell. The petitioner is aggrieved by the action taken by the Vigilance Cell in recording the statements behind his back.

9. There is no dispute that the Vigilance Cell recorded the statements of the petitioner and his near relatives, including his father. The petitioner is aggrieved by the action in recording the statements of third parties without giving opportunity for cross examination.

10. The order passed by the State Level Scrutiny Committee indicates that even the secret enquiry report and the deposition given by the witnesses were also taken note of for deciding the community status of the petitioner. The petitioner is therefore, prima facie correct in his contention that the secret enquiry was conducted and those materials were also taken as basic materials for deciding the issue.

11. The order passed by the State Level Scrutiny Committee is liable to be set aside only for the reason that copies of the statements were not given to the petitioner and that the materials were collected by conducting secret enquiry.

12. In the result, the order dated 19 March 2015 is set aside. The State Level Scrutiny Committee is directed to furnish the statements recorded by the District Level Committee to the petitioner. In case, the State Level Scrutiny Committee wanted to rely on such statements, necessarily opportunity should be given to the petitioner to cross examine those witnesses. The cross examination should be conducted in the presence of the State Level Scrutiny Committee. The State Level Scrutiny Committee must ensure the presence of the witnesses, so as to enable the petitioner to cross examine them on the very same day. The petitioner is not entitled to the assistance of lawyers for cross examination of witnesses. In case, the Committee is of the view that the issue can be decided even without reference to the deposition given by the witnesses,

there is no need for summoning them. In such event, the Committee shall give an opportunity to the petitioner to produce documents in support of his claim and thereafter, decide the matter on merits and as per law. The petitioner is directed to co-operate with the State Level Scrutiny Committee for an early disposal of the matter. In case, the petitioner is prolonging the matter under one pretext or the other, it is open to the State Level Scrutiny Committee to decide the matter on the basis of available materials. Such exercise shall be completed within a period of three months from the date of receipt or production of a copy of this order.

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

Sd/-
Assistant Registrar

//True Copy//

gms

Sub Assistant Registrar

To

1. State of Tamil Nadu rep. by its
Secretary to Government,
Adi Dravidar and Tribal Welfare (CV2) Department,
Secretariat, Chennai-600 009.
2. State Level Scrutiny Committee,
Rep. by its Chairman and Secretary to Government,
Adi Dravidar and Tribal Welfare (CV2) Department,
Secretariat, Chennai-600 009.
3. The Chairman and Managing Director,
Indian Bank,
Corporate Office,
Avvai Shanmugam Salai,
Chennai-600 014.

+1cc to Mr.Doraisamy, Advocate, S.R.No.22392

+1cc to Mr.Aiyar & Dolia, Advocate, S.R.No.22465

W.P. No.8688 of 2015

SVI (CO)
RS(05/05/2017)