

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2017

CORAM

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

W.P.No.9135 of 2015 and
M.P.No.2 of 2015

V.Jagathambal

... Petitioner

Vs.

The Chairman
State Level Scrutiny Committee and
Secretary to Government
Adi Dravidar and Tribal Welfare Department
Namakkal Kavingar Maligai
Fort St.George, Chennai-9.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, to call for the records of the respondent in its proceedings No.40432/ADWS/2007-17 dated 06.11.2014 and quash the same.

For Petitioner : Mr.V.Vijay Shankar

For Respondent : Mr.K.Venkatramani,
Additional Advocate General
Asst. by Mr.A.Kumar
Special Government Pleader

सत्यमेव जयते

O R D E R

K.K.SASIDHARAN, J.

This writ petition is directed against the order dated 6 November 2014 on the file of the Tamil Nadu State Level Scrutiny Committee holding that the community certificate obtained by the petitioner indicating that he belongs to Konda Reddy community which is notified as a Scheduled Tribe, is not genuine.

2. The petitioner obtained a community certificate from the Tahsildar, Avinashi, on 28 December 1979 and on the strength of the said certificate, secured employment in Canara Bank. The petitioner, on attaining the age of superannuation, retired from service on 30 June 2014. The certificate of the

petitioner relating to his community status was earlier considered by the State Level Scrutiny Committee pursuant to the reference made by the District Level Vigilance Cell. The certificate was cancelled by order dated 28 November 2013. The said order was challenged before this Court in W.P.No.33099 of 2013. This Court, by judgment dated 11.12.2013, remanded the matter for fresh consideration on merits. Thereafter, the matter was taken up for consideration by the State Level Scrutiny Committee. The Committee passed an adverse order against the petitioner.

3. The order passed by the State Level Scrutiny Committee indicates that a discreet enquiry was conducted and on the basis of the materials collected in the said enquiry, and taking into account other documents, it was decided to cancel the certificate issued to the petitioner.

4. The learned counsel for the petitioner, by placing reliance on paragraph 7 of the order passed by the State Level Scrutiny Committee, contended that it was only on the basis of discreet enquiry conducted by the authorities, the petitioner's community certificate was cancelled. According to the learned counsel, the enquiry was conducted behind the back of the petitioner and no opportunity was given to him to submit his views. The impugned order is, therefore, liable to be set aside.

5. The learned Additional Advocate General, though made an attempt to sustain the order passed by the authorities, fairly conceded that only a discreet enquiry was conducted by the authorities.

6. The genuineness of the community certificate issued to the petitioner was the issue before the State Level Scrutiny Committee. The Committee was expected to decide the issue in the light of 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]. The Committee has to send the matter to the Vigilance Wing for a report. The Vigilance Wing was expected to conduct the enquiry in the locality, collect materials and thereafter, submit a report to the State Level Scrutiny Committee. The Vigilance Wing was not expected to conduct a discreet enquiry, without reference to the petitioner. The enquiry should be a meaningful one. The petitioner should also be given an opportunity by the Vigilance Wing before submitting a report, one way or the other. The petitioner is entitled to cross-examine the witnesses examined by the Vigilance Cell. Similarly, the petitioner is entitled to a copy of the Vigilance report, along with its enclosures. These are procedural safeguards guaranteed to the applicant whose certificate is under scrutiny.

7. In the subject case, the State Level Scrutiny Committee relied on the report submitted by the District Vigilance Team, after conducting a discreet enquiry and thereafter, decided the community status of the petitioner. While passing the order impugned in this petition, the authorities have not followed the law laid down by the Hon'ble Supreme Court and reiterated by this Court in a number of decisions. Since discreet enquiry report was the primary reason for taking a decision with regard to the community certificate of the petitioner, the said order is liable to be set aside.

8. The order dated 06 November 2014 is set aside. The matter is remitted to the State Level Scrutiny Committee for fresh consideration. The State Level Scrutiny Committee is directed to follow the law laid down by the Supreme Court in *Kumari Madhuri Patil v. Additional Commissioner, Tribal Development and others* [(1994) 6 SCC 241], other precedents and the related Government Orders and pass appropriate orders on merits and as per law. 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 petition is closed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

gms

To

The Chairman
State Level Scrutiny Committee and
Secretary to Government
Adi Dravidar and Tribal Welfare Department
Namakkal Kavingar Maligai
Fort St.George, Chennai-9.

+1 +1 CC to Mr.Vijay shankar, Advocate SR.No.18447

W.P.No.9135 of 2015

rsi(co)
rmp(11/04/17)