

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2017

CORAM :

THE HON'BLE MR. JUSTICE C.T.SELVAM
AND
THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P.Nos.22955 of 2013, 5127 and 22230 of 2016 and
MP.No.1 to 3 of 2013 & WMP.No.38016 of 2016 and
WMP.No.4490 of 2016 & WMP.No.585 of 2017 and
WMP.No.18965 of 2016

DR.M.D.Rekha ... Petitioner in All WP's

Vs.

- 1.The Tamil Nadu State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maligai,
Secretariat, Chennai - 600 009. ... R1 in WP.22955/16
- 2.The Director of Medical Education,
Kilpauk, Chennai - 600 010. ... R2 in WP.22955/16
R1 in WP's.5127&22230/16
- 3.The Dean,
Thanjavur Medical College,
Thanjavur. ... R3 in WP.22955/16
R2 in WP's.5127&22230/16
- 4.The Tamil Nadu Dr.M.G.R. Medical University,
69, Anna Salai, Guindy,
Chennai - 600 032.
Rep. by its Vice Chancellor. ... R4 in WP.22955/16
R3 in WP's.5127&22230/16
- 5.The controller of examinations
T.N. Dr.M.G.R.Medical University,
No.69, Anna Salai, Guindy,
Chennai 32. ... R4 in WP'S.5127&22230/16

PRAYER in W.P.No.22955 of 2013: Petition under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records relating to the proceedings of the first respondent in Proceedings No.6644/ADW5/2012-6, dated 29.07.2013, to quash the same and consequently to declare the communal status of the petitioner as "Kondareddis Scheduled Tribe Community" based on the Certificate bearing C.No.90704, dated 30.6.2000 issued by the Revenue Divisional Officer, Chengalpattu with consequential benefits, including issuance of Provisional Pass Certificate-II (PP-II) of M.B.B.S. Course completed in the third respondent/College and to return all the original certificates by respondents 2 to 4.

PRAYER in W.P.No.5127 of 2016: Petition under Article 226 of the Constitution of India to issue a writ of Mandamus directing the third respondent/University to allot PG Registration Number to the petitioner for the Post Graduation Course in M.S. (General Surgery) undergone by the petitioner and to allow the petitioner to write the final year examination in April, 2016 and to submit Dissertation and E-Journal to the third respondent through second respondent and consequently to declare the results for the petitioner in respect of M.S. (General Surgery) Degree examination.

PRAYER in W.P.No.22230 of 2016: Petition under Article 226 of the Constitution of India to issue a writ of Mandamus directing the respondents to allow the petitioner to complete the Bond Service by participating in the Counselling for Non Service Post Graduates issued as per Circular issued by the first respondent in Ref.No.58233/E3/1/2015-NSPG, dated 22.06.2016, for posting the petitioner in Government Service.

For Petitioner : Mr.AR.L.Sundaresan
Senior Counsel
for Mr.G.Sankaran

For Respondents: Mr.K.Venkataramani
Addl. Advocate General
Assisted by
Mr.S.N.Parthasarathy
Government Advocate
For respondents 1 to 3
in W.P.No.22955 of 2013
And respondents 1 and 2
in WP.5127 & 22230/2016

Mr.G.Hari Hara Arun Soma Sankar
For 4th respondent
in W.P.No.22955 of 2013
respondents 3 and 4
in WP.5127 & 22230/2016

COMMON ORDER

(Order of this Court was made by M.V.MURALIDARAN,J.)

Calling into question the proceedings of the State Level Scrutiny Committee dated 29.7.2013, in and by which it was held that the petitioner does not belong to 'Kondareddis' Scheduled Tribes Community and her community certificate was cancelled and challenging the said order, the petitioner has filed W.P.No.22955 of 2013.

2.While W.P.No.5127 of 2016 has been filed seeking directions on the third respondent/University to allot PG Registration Number to the petitioner for the Post Graduation Course in M.S. (General Surgery) undergone by the petitioner and to allow the petitioner to write the final year examination in April, 2016 and to submit Dissertation and E-Journal to the third respondent through second respondent and consequently to declare the results for the petitioner in respect of M.S. (General Surgery) Degree examination, W.P.No.22230 of 2016 is filed seeking a direction on the respondents to allow the petitioner to complete the Bond Service by participating in the Counselling for Non Service Post Graduates issued as per Circular issued by the first respondent in Ref.No.58233/E3/1/2015-NSPG, dated 22.06.2016, for posting the petitioner in Government Service.

3.Let us get down to brass tacks. It is the case of the petitioner that she belongs to Kondareddis Community, classified as Scheduled Tribes and she was also issued a community certificate to that effect by the Revenue Divisional Officer, Chengalpattu on 30.06.2000. The petitioner got admission to M.B.B.S. Course on merits coupled with her communal status. On successful completion of the final year of M.B.B.S. Course, she was issued with Provisional Pass Certificate -1 and based on the same, she got her name registered in the Tamil Nadu Medical Council. It is claimed that she also successfully completed the CRR I Training.

4.It is averred that the respondent/University referred her community certificate to the District Level Vigilance Committee for verification. Thereafter, the matter ultimately reached the State Level Scrutiny Committee, which, by proceedings dated 29.07.2013, held that the petitioner does not belong to

Kondareddis community and accordingly, ordered cancellation of the community certificate issued to her.

5.It is the plea of the petitioner that when she produced 38 documents in support of her plea, including the orders passed by this Court in favour of her relatives, the State Level Scrutiny Committee did not refer or give credence to the same, but, on the other hand, gave weightage to a report of the Vigilance Cell (copy of which was not furnished to the petitioner) and ordered cancellation of the community certificate of the petitioner.

6.It is the further plea of the petitioner that the pivotal reasons for passing of the impugned proceedings dated 29.07.2013 was that the petitioner did not produce the copy of the first page of the service book of her father, who is working as Assistant Manager in Reserve Bank of India, and that the school records of the petitioner's father show that he belongs to Kondalakulam, and that Kondala and Kondareddis communities are distinct.

7.Anent the above said plea, it is the contention of the learned Senior Counsel for the petitioner that when the petitioner's father applied for a copy of the first page of his service book, the Reserve Bank of India issued certificate dated 06.02.2013, enclosing the Scheduled Tribe Community Certificate of the year 1976 to the effect that the petitioner's father belongs to Kondareddis Scheduled Tribe Community. The said letter of the Reserve Bank of India along with the community certificate of the petitioner's father were forwarded to the State Level Scrutiny Committee by registered post on 15.02.2013, but no weightage was given to the said documents.

8.It is the contention of the learned Senior Counsel for the petitioner that the petitioner's father was issued with a community certificate by the Tahsildar, Tiruttani Taluk on 11.06.1976, whereas in the report of Vigilance Cell it has been recorded that the petitioner's father obtained community certificate only in the year 2001, which is ex facie erroneous, and when the original certificate was produced before the State Level Scrutiny Committee, the same was not considered by it. To amplify the said plea, it is contended that when the petitioner was issued community certificate in the year 2000, by no stretch of imagination it can be alleged that the petitioner's father obtained community certificate only in the year 2001.

9.It is the further contention of the learned Senior Counsel for the petitioner that the allegation of the respondents that the community certificate issued by the Taluk Office cannot be considered is in flagrant violation of the ruling of the Supreme Court in Kandasamy v. State of Tamil Nadu, (1997) 7 SCC 505,

wherein it has been categorically held that the Schedule Tribe Community Certificate issued by Tahsildar prior to 11.11.1989 is valid and there is no requirement to obtain any community certificate from the Revenue Divisional Officer.

10. Qua the issue that Kondalakulam and Kondareddis communities are distinct, it is the contention of the learned Senior Counsel that Kondala is colloquial usage of Kondareddis community and both are referable to the same caste. In support of the said plea, he referred to the decisions of this Court in umpteen number of cases holding that Kondalakulam and Kondareddis Community are one and same. He further contended that the State Level Scrutiny Committee erred in not considering the orders passed by this Court in the case of her maternal aunt and her relative.

11. When the above said plea of non-furnishing of report of the Vigilance Cell, which formed the basis for passing the impugned order dated 29.07.2013, was taken up by a Division Bench of this Court, as is traceable to the order dated 14.09.2017, the learned Special Government Pleader furnished a copy of the report of the Vigilance Cell as well the documents attached thereto, as also a copy of anthropology report to the learned counsel for the petitioner. This Court vide the said order directed the petitioner to submit her explanation qua the said vigilance report in the form of an affidavit. Pursuant to the same, the petitioner filed her objections in line with the contentions, referred supra.

12. It is the contention of the learned counsel appearing on behalf of the respondent University that since the community certificate issued to the petitioner has been cancelled by the State Level Scrutiny Committee, the petitioner cannot claim the benefit of admission to medical college based on such community certificate and, therefore, the allotment order itself is ab initio void and since the petitioner has not been awarded any Degree, she cannot represent herself with "Dr." and the same is an offence under the Indian Medical Degrees Act, 1916.

13. The learned Additional Advocate General appearing on behalf of the respondent authorities justified the decision taken by the State Level Scrutiny Committee and reiterated the reasons that weighed the Committee in cancelling the community certificate issued to the petitioner.

14. We have heard Mr. Mr. AR. L. Sundaresan, learned Senior Counsel for Mr. G. Sankaran appearing for the petitioner in all the writ petitions and Mr. K. Venkataramani, learned Additional Advocate General, Assisted by Mr. S. N. Parthasarathy, learned Government Advocate appearing for the respondents 1 to 3 in

W.P.No.22955 of 2013 and respondents 1 and 2 in WP.Nos.5127 and 22230 of 2016, Mr.G.Hari Hara Arun Soma Sankar, learned counsel appearing for the 4th respondent in W.P.No.22955 of 2013 and the respondents 3 and 4 in WP.Nos.5127 and 22230 of 2016 and perused the documents placed on record.

15.A perusal of the community certificate dated 30.06.2000 reveals that the Revenue Divisional Officer, Chengalpattu, certified that the petitioner belongs to "Hindu Kondareddis" Community, which is a Scheduled Tribe Community.

16.Now, coming to the community certificate issued to the petitioner's father, which was forwarded by the Reserve Bank of India, vide proceedings dated 06.02.2013, it is apparent that the petitioner's father belongs to "Konda Reddies" Community, which is a Scheduled Tribe Community. The petitioner's father is working as Assistant Manager in the Reserve Bank of India and in case the veracity of the said community certificate produced by him is doubtful, certainly the authorities of the Reserve Bank of India would have proceeded against him in accordance with law. Moreover, Reserve Bank of India continues to utilize his services and it is claimed that he is continuing to render his services.

17.The Hon'ble Supreme Court as well as this Court time and again held that so long as the certificate issued to the father that he belongs to a community which is notified as Scheduled Tribe stands, his children are also entitled to the said Community Certificate. On this sole ground, the petitioner is entitled to the relief as claimed in W.P.No.22955 of 2013.

18.However, let us now consider the cases of the petitioner's relatives, whose communal status has been upheld by this Court. In K.Saraswathi v. The Sub Collector, Thiruvellore [W.P.No.12217 of 1983, dated 4.12.1984], a Division Bench of this Court categorically held that:

"Once it is made out that the petitioner belongs to Kondalakulam, it must be held that she belongs to Konda Reddi Community".

19.In yet another case of petitioner's relative, a learned Single Judge of this Court in A.M.Prabhakaran v. The Collector of Chengalpattu and other [W.P.No.10709 of 1993, dated 25.1.2000] held as under:

"2.In this case also, the finding is that the writ petitioner belongs to Kondalakulam caste and not Konda Reddy community. The reasons given by me in the judgment delivered today in W.P.No.2819 of 1993 and the conclusion arrived at therein would equally apply with all force to the case on hand. In this

case also, as already noticed, the finding is that the writ petitioner belongs to Kondalakulam caste. Accordingly, the writ petition is allowed..."

20. Admittedly, the above said two orders of this Court remain unchallenged and have attained finality.

21. Even in the case on hand, the plea of the respondent authorities is that Kondalakulam and Kondareddis are two distinct communities. To fortify the said plea, reliance is placed on a letter No.12018/12/85-SCD (R.Cell), dated 20.04.1987 from the Ministry of Welfare, New Delhi, Government of India, addressed to the Deputy Secretary to Government Social Welfare Department, Madras, wherein it has been stated that "In other words, Konthalakulam has nothing to do with Konda Reddis and in view of this persons belonging to Konthalakulam cannot get certificate in the name of Kondareddis community."

22. The said communication dated 20.04.1987 is a letter issued by the Government of India, and not a document with the assent of the President of India. Moreover, this Court in umpteen number of judgments categorically held that Konthalakulam community and Kondareddis community are one and the same. The said administrative instructions of the Government would not have the effect of nullifying the law laid down by this Court.

23. At this stage, it is apposite to note that even prior to the issuance of the said communication dated 20.04.1987, this Court had categorically held in a series of decisions starting from the orders in WP.Nos.2197 and 3462 of 1983, W.P.No.3363 of 1983, dated 31.7.1984, W.P.No.12134 of 1983 and 8324 of 1984, dated 16.10.1984, W.P.No.14712 of 1992, dated 13.10.1999, and the like, that 'Kondalakulam' would refer only to 'Konda Reddy' community. That apart, in the case of Purushothama Reddy v. The Revenue Divisional Officer, 1994 (1) MLJ 1995, this Court held that "reliance made upon the administrative direction of the Government to hold that 'Kondalakulam' is different from 'Konda Reddy' will not hold good since the law laid by this Court is different". The said view strengthens the plea of the petitioner and we do not think it just and proper to take a different view than the one settled by this Court years back.

24. For the reasons aforesaid,

(a) the writ petition in W.P.No.22955 of 2013 is allowed and the proceedings of the State Level Scrutiny Committee in No.6644/ADW5/2012-6, dated 29.07.2013, is set aside;

(b) the prayer made in W.P.Nos.5127 and 22230 of 2016 is only consequential and since, the proceedings dated 29.07.2013 is hereby set aside, these two writ petitions are also allowed

and the petitioner is entitled to all the benefits to which a person belonging to Kondareddis Scheduled Tribe Community is entitled to. No costs. Consequently, all W.M.P.Nos.38016, 18965 and 4490 of 2016, 585 of 2017 and M.P.Nos.1, 2 and 3 of 2013 are closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

vs
To

- 1.The Tamil Nadu State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maligai,
Secretariat, Chennai - 600 009.
- 2.The Director of Medical Education,
Kilpauk, Chennai - 600 010.
- 3.The Dean,
Thanjavur Medical College,
Thanjavur.
- 4.The Vice Chancellor,
Tamil Nadu Dr.M.G.R. Medical University,
69, Anna Salai, Guindy,
Chennai - 600 032.
- 5.The Controller of Examinations,
Tamil Nadu Dr.M.G.R.Medical University,
No.69, Anna Salai, Guindy,
Chennai - 600 032.

+3cc to Mr.G.SANKARAN Advocate, S.R.No. 79482
+1cc to the Government Pleader, S.R.No. 79369

W.P.Nos.22955 of 2013, 5127 and
22230 of 2016 and
MP.No.1 to 3 of 2013 &
WMP.No.38016 of 2016 and
WMP.No.4490 of 2016 &
WMP.No.585 of 2017 and
WMP.No.18965 of 2016

RV(CO)
TR(14/12/2017)