

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 22.03.2017

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.34588 of 2016 and
W.M.P.Nos.29791 and 29792 of 2016

S.Tharmaraj

.... Petitioner

Vs

- 1.The Union of India,
Represented by the Chief Secretary to Government,
Government of Puducherry,
Puducherry.
2. The Commissioner - cum - Secretary (Revenue),
Department of Revenue and Disaster Management,
Government of Puducherry,
Puducherry.
3. The Special Officer,
Office of the District Collector cum District Magistrate,
Department of Revenue and Disaster Management,
Government of Union Territory of Puducherry,
Puducherry.

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, calling for the records on the file of the 2nd respondent relating to the impugned order in G.O.Ms.No15 dated 15.06.2015 and the notice of the third respondent dated 09.09.2016 bearing Ref. No.7273/DRDM/C2/ST-CAN/2013 and quash the same.

For Petitioner : Mr.Bharathachakravarthy
for M/s. Sai Bharath & Ilan
For Respondents : Mrs.Reena Iswarya AGP(P)

O R D E R

(The order of the court was made by K.K.SASIDHARAN,J.)

The challenge in this Writ Petition is to the notice dated 9 September 2016 issued by the Special Officer, Department of Revenue and Disaster Management, Puducherry calling upon the

petitioner to appear for an enquiry, in connection with the dispute relating to his community status.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader on behalf of the Union of Pondicherry.

3. The Revenue Department, Government of Pondicherry on the strength of the community certificate issued by the Tahsildar, Thuraiyur Taluk, dated 10 August 1977 issued a Community Certificate to the petitioner.

4. The petitioner secured employment in the Union Territory of Pondicherry on the basis of the said community certificate. The petitioner, functioned as a Chief Educational Officer and on attaining the age of superannuation, retired on 30 November 2010. The petitioner was not given the retirement benefits, on account of the pendency of the proceedings relating to his community status.

5. The documents available on record indicates that the Collector of Pondicherry, issued a notice to the petitioner on 13 February 2014 to show cause as to why his scheduled tribe certificate should not be canceled. The notice proceeded as if the petitioner obtained false scheduled tribe certificate and secured employment in the Education Department, Pondicherry.

6. The petitioner in his explanation to the show cause notice denied the allegation that he fraudulently obtained the scheduled tribe certificate. It was only thereafter the impugned notice was issued by the Department of Revenue and Disaster Management calling upon the petitioner for enquiry.

7. There is no dispute that the petitioner migrated from the neighboring state of Tamilnadu. The Community Certificate issued to the petitioner by the Taluk Office, Pondicherry clearly indicates that it was issued on the strength of the certificate issued by the Taluk Office, Thuraiyur, Tamil Nadu. There is no question of canceling the certificate issued by the Government of Puducherry, suo-moto without there being an order passed by the Revenue Authorities at Thuraiyur, cancelling the certificate which was the basis for issuing Community Certificate by the Competent Authority at Puducherry.

8. The 3rd respondent has absolutely no authority to proceed against the petitioner unless his Community Certificate is cancelled by the Authorities, which was the basis for issuing a fresh Community Certificate by the Tahsildhar, Pondicherry on 26 March 1992.

9. In the result, the notice dated 09.09.2016 is set aside. It is open to the second respondent to refer the matter to the State Level Scrutiny Committee, Tamilnadu, in case, there are prima facie materials to arrive at a conclusion that the petitioner does not belong to Schedule Tribe Community.

10. The Writ Petition is allowed as indicated above. No costs. Consequently, the connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar (CS-VII)

True Copy

Sub-Assistant Registrar

To

1. The Chief Secretary
The Union of India,
Government of Puducherry,
Puducherry.
2. The Commissioner - cum - Secretary (Revenue),
Department of Revenue and Disaster Management,
Government of Puducherry,
Puducherry.
3. The Special Officer,
Office of the District Collector cum District Magistrate,
Department of Revenue and Disaster Management,
Government of Union Territory of Puducherry,
Puducherry.

+1 CC to M/s. Sai Bharath & Ilan, Advocate sr 18079

+1 Cc to Govt. Pleader sr 18337

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VGI (CO)
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