



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD) No.24326 of 2016

and

W.M.P (MD) Nos.17575 & 17576 of 2016

R.Lakshmanaperumal

: Petitioner

Vs.

The Chairman,
State Level Scrutiny Committee,
Secretary, Adi Dravidar and
Tribal Welfare Department,
Namakkal Kavingar Maligai,
Chennai.

: Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorari calling for the records of the respondent in its No.25335/CV-II/2008-I-Dated 06.01.2014 and quash the same.

For Petitioner : Mr.V.Vijay Shankar

For Respondent : Mr.N.S.Karthikeyan,
Additional Government Pleader

ORDER

[Order of the Court was made by **R.SUBBIAH, J.**]

This Writ Petition has been filed seeking for issuance of a writ of Certiorari calling for the records of the respondent in its No.25335/CV-II/2008-I-Dated 06.01.2014 and quash the same.

2. The case of the petitioner is that he belongs to Konda Reddis Community, which is classified as Scheduled Tribes. He was issued with Community Certificate on 27.10.1976 by the Tahsildar, Vilathikulam. Thereafter, the petitioner was appointed as Assistant Grade-III in January, 1977. The petitioner served in that capacity nearly for thirty years. The District Level Vigilance Committee earlier cancelled the Community Certificate, vide order, dated 26.12.2006. Challenging the said order, the



petitioner is having right to prefer an appeal before the State Level Scrutiny Committee. But, even before filing an appeal by the petitioner, the Food Corporation of India terminated the services of the petitioner. The State Level Scrutiny Committee/the respondent herein, in gross violation of the procedure contemplated in G.O.Ms.No.108, dated 12.09.2007 and G.O.Ms.No.106, dated 15.10.2012, without even referring the matter for spot enquiry by the Vigilance Cell, has cancelled the community certificate issued to the petitioner on 06.01.2014. According to the petitioner, the very same Anthropologist, who was a part to the District Level Vigilance Committee, has once again participated in the State Level Scrutiny Committee. Hence, the petitioner sent a representation to the respondent stating that the very procedure adopted by the respondent, is illegal. Since there was no response, the petitioner once again sent a representation on 28.11.2016. Even then, no action was taken by the respondent. Hence, the petitioner has come up with the present writ petition.

3. When the matter is taken up for consideration, the learned counsel appearing for the petitioner by relying on the judgment of a Division Bench of this Court in the case of *G.Venkitasamy and another vs. The Chairman, State Level Scrutiny Committee and another* reported in (2016) 1 MLJ 606, submitted that on receipt of application for verification, the State Level Scrutiny Committee shall refer the matter to the Vigilance Cell for enquiry and the Vigilance Cell, as constituted, shall investigate into the social status claim of the application, visiting the local place of residence and original place from which the candidate hails and usually resides. The Vigilance Officer, assisted by the Inspector of Police, shall verify all the documents and collect relevant facts in an open and transparent manner from all the relevant places such as school, locality, etc. and persons such as parents and close relatives and also examine the school officials, parents/guardians and other close relatives of the concerned caste. The Vigilance Cell shall also record the anthropological and ethnological traits and rituals, customs, mode of marriage and other ceremonies of the community claimed by the candidate. On a proper examination of the same, a reasoned report shall be submitted to the State Level Scrutiny Committee, but, in the instant case, without referring to the Vigilance Cell, the State Level Committee has directly passed the impugned order. Therefore, the same is liable to be set aside.

4. But, countering the said submissions, the learned Additional Government Pleader appearing for the respondents by filing a detailed counter affidavit submitted that the District Level Vigilance Committee, Tuticorin, conducted a detailed enquiry on 23.09.2016 and examined various documents. After enquiry, the District Level Vigilance Committee found that the petitioner did not substantiate his claim of Scheduled Tribe Konda Reddis



Community status and therefore, issued orders that the Scheduled Tribe Hindu Konda Reddis Community Certificate issued to the petitioner was not a genuine one. Thereafter, the petitioner filed various writ petitions. In the order, dated 26.07.2005, passed in W.P.No.43594 of 2002, this Court referred the case to the three members District Level Vigilance Committee, which has been constituted as per G.O.(Ms) No.111, dated 31.08.1998. Again, the District Level Vigilance Committee came to the conclusion that the community certificate was not a genuine one and cancelled the community certificate issued to the petitioner vide proceedings, dated 26.12.2006. Thereafter, the petitioner once again filed W.P.No.21342 and 36548 of 2007, wherein this Court vide order dated 02.04.2008 set aside the orders of the District Level Vigilance Committee, Tuticorin and remitted back the case to the State Level Scrutiny Committee for further enquiry as per orders issued in G.O.(2D) No.108 Adi Dravidar and Tribal Welfare Department, dated 12.09.2007. Subsequently, the petitioner submitted a petition on 29.09.2008 to the State Level Scrutiny Committee. Pursuant to that, the petitioner was directed to appear for enquiry on 22.09.2011. During the enquiry, the State Level Scrutiny Committee scrutinized all the records. But, the petitioner did not produce any valid evidence. Hence, the State Level Committee issued a show-cause notice to him with instructions to produce the documents to substantiate his claim and therefore, reasonable opportunity was given to the petitioner and therefore, there is no need for setting aside the order passed by the respondent.

5. I have carefully considered the rival submissions made on either side and perused the materials available on record.

6. As per the law laid down by a Division Bench of this Court in *G.Venkitasamy and another vs. The Chairman, State Level Scrutiny Committee and another* reported in (2016) 1 MLJ 606, in the case on hand, without referring to the matter to the Vigilance Cell for enquiry, the impugned order has been passed and therefore, the same is liable to be set aside.

7. In view of the above stated position, the impugned order of the respondent, dated 06.01.2014, is set aside and the matter is remitted back to the respondent and the respondent is directed to refer the matter to the Vigilance Cell for verification and on receipt of the Vigilance Committee Report, the respondent is directed to issue notice to the petitioner by furnishing Vigilance Committee Report, to appear for enquiry and on receipt of the same, the petitioner is directed to appear for enquiry along with relevant documents. On production of the same, the respondent is directed to consider the same and pass appropriate orders, within ~~one month~~ ^{four} weeks thereafter.

8. The Writ Petition is allowed as indicated above. No costs.



Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar[CS-III]

/True copy/

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Sub Assistant Registrar

To
The Chairman,
State Level Scrutiny Committee,
Secretary, Adi Dravidar and
Tribal Welfare Department,
Namakkal Kavingar Maligai,
Chennai.
+1cc to Mr.V.Karthikeyan, Advocate, SR.6750
+1cc to Special Government Pleader, SR.6599

Order made in
W.P.[MD].No.24326 of 2016
06.02.2017

KK-MR-15.03.2017-2P-4C