



WEB COPY

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.03.2017**

CORAM:

THE HONOURABLE **THE ACTING CHIEF JUSTICE**
and

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**

**W.P(MD)No.8283 of 2013
and
M.P(MD)No.1 of 2013**

Dr.G.Sathiyamoorthy

.. Petitioner

Vs.

1.State of Tamil Nadu rep. by
The Secretary to Government,
Adi Dravidar & Tribal Welfare (CV1) Department,
Secretariat, Chennai - 9.

2.The District Vigilance Officer,
Vigilance Cell,
Adi Dravidar & Tribal Welfare Department,
Madurai Region, Madurai.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the second respondent to give sufficient notice to the petitioner before making local inspection and examination of the persons and records in respect of the petitioner's communal status in his local place and conduct local inspection only in his presence and pass such further or other orders.

For Petitioner

: Mr.D.Selvanayagam

For Respondents

: Mr.S.Chandrasekar,
Government Advocate.

ORDER

[Order of the Court was made by the HON'BLE THE ACTING CHIEF JUSTICE]

This writ petition has been filed praying to issue a writ of mandamus to direct the second respondent to give sufficient notice to the petitioner, before making local inspection and examination of the persons and records in respect of the petitioner's communal status in his local place and conduct local inspection only in his presence.

<https://hcservices.ecourts.gov.in/hcservices/>

2.The case of the petitioner is that he belongs to 'Konda

petitioners
came to the

4.As per the established procedure, even in a criminal prosecution, it is for the State to prove the guilt of the accused. Even in such a situation, the Criminal Procedure Code contemplates usual course of enquiry to be held and to record statements under Section 161 and thereafter final report is filed and if not satisfied, then trial will be conducted in the presence of the accused and opportunity will be given to the accused to cross-examine such witnesses, who gave statements in his absence. This is the procedure contemplated. But, the prayer sought for by the petitioner is to record the statements of the local persons even in respect of birth or residence of a person may not be known to jurisprudence. Therefore, the prayer sought for by the petitioner to direct the second respondent to give notice before making local inspection, which in fact is a discrete enquiry to be made in the place of birth/residence, cannot be granted. However, if any of such statement is recorded by the second respondent, from the local persons in the place, wherein the petitioner is said to have been born/residing and if such statements are adverse to that of the petitioner, the petitioner should be afforded an opportunity to rebut such statement and principles of natural justice require that to be complied with by the second respondent before taking a decision in the matter. Therefore, while refusing to grant the relief sought for in the writ petition, the same is



disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Co)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Adi Dravidar & Tribal Welfare (CV1) Department,
Government of Tamil Nadu,
Secretariat, Chennai - 9.

2. The District Vigilance Officer,
Vigilance Cell,
Adi Dravidar & Tribal Welfare Department,
Madurai Region, Madurai.

+1cc to SPECIAL GOVERNMENT PLEADER SR. No.14417

+1cc to M/s.D.SELVANAYAGAM Advocate in SR. No.14277

SMN

JS/PM/20.03.2017/3P-5C

ORDER MADE IN
W.P (MD) No.8283 of 2013
and
M.P (MD) No.1 of 2013
13.03.2017