

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2018

CORAM:

THE HON'BLE MR.JUSTICE M.VENUGOPAL

AND

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.7127 of 2018

and

W.M.P.No.8825 of 2018

Mrs.Daphne Dolly.P.

... Petitioner

vs.

- 1.The Principal Secretary to
the Government of Tamil Nadu,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Fort St.George,
Chennai-600 009.
- 2.The Secretary,
Tamil Nadu Public Service Commission,
No.3, V.O.C.Nagar, Frazer Bridge Road,
Chennai-600 003
- 3.The Director,
Medical and Rural Health Services Department,
Chennai-600 006
- 4.The Chairman,
The State Level Scrutiny Committee,
rep.by Secretary to Govt.of Tamil Nadu,
Adi Dravidar and Tribal Welfare Department,
Secretariat,
Fort St.George,
Chennai-9

... Respondents

(R4 impleaded as per order
dated 13.6.2018 by RPSJ & CSNJ
in W.M.P.No.16770 of 2018
in W.P.No.7127 of 2018)

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus, to direct the First Respondent, Principal Secretary to the Government of Tamil Nadu, Adi Dravidar and Tribal Welfare Department, Chennai-600 009, to place the findings of the Enquiry Report submitted by the Deputy Superintendent of Police, SC/ST Vigilance Cell, Nilgiris, before the State Level Scrutiny Committee, to pass final orders pertaining to the Community of the Petitioner as Christian-Toda, included in Scheduled Tribes Communities within the time frame.

For Petitioner : Mr.R.Ramachandran

For Respondents: Mr.V.Manohar,A.G.P.
For R1

ORDER

(Order of the Court was made by M.VENUGOPAL,J.)

Heard the Learned Counsel for the Petitioner and the Learned Additional Government Pleader for the First Respondent. No counter is filed on behalf of R2 to R4.

2.According to the Petitioner, he was provisionally selected for appointment, by Direct Recruitment, to the post of Assistant in Medical and Rural Health Services, included in Combined Civil Services Examination II, 2013-14 (Non-interview) (Group IIA Services)-Phase-II. He was allotted to the post of Assistant based on his rank, vacancy position, rule of Reservation of appointment and his choice of post.

3.The stand of the Petitioner is that in the Application for Combined Civil Services Examination II (2013-14) (Non interview posts) (Group II A Services), submitted to the Tamil Nadu Public Service Commission, he claimed that he belongs to Christian - Toda - Scheduled Tribe Community and in this regard, he also enclosed a 'Community Certificate' obtained from the Revenue Divisional Officer, Nilgiris. Furthermore, he belongs to one of the communities mentioned in the Scheduled Tribe Community and his selection to the post of Assistant was made as provisional one by the Second Respondent/Tamil Nadu Public Service Commission, subject to verification of his Community from the Fourth Respondent/State Level Scrutiny Committee, Adi Dravidar and Tribal Welfare Department, Chennai.

4.It comes to be known that the Secretary of the Second Respondent/Tamil Nadu Public Service Commission, Chennai, on 07.11.2015, had addressed a communication to the Third Respondent/Director, Medical and Rural Health Services Department, informing the Petitioner's provisional selection to the post of Assistant and directed to refer his case to the Fourth Respondent/State Level Scrutiny Committee to verify the genuineness of his claim in the Application already submitted.

5.The Third Respondent/Director of Medical and Rural Health Services, Chennai, in his reference Letter dated 30.11.2015, had communicated to the Petitioner, the Order of appointment to the post of Assistant and his postings in his unit, i.e. in the Directorate Office, which comes under the purview of Tamil Nadu Ministerial Service. As directed in the said appointment and posting Order, the Petitioner jointed in the post of Assistant in the Third Respondent Office, on 28.12.2015. Moreover, in the Appointment Order itself, the Third Respondent/The Director of Medical and Rural Health Services, Chennai-600 006 had indicated that the Foundational Training for a period two months at Civil Services Training

Institute, Bhavanisagar, Erode, is an essential qualification to be obtained by the Petitioner within the specified period. In order to send him to the Bhavanisagar Training, his service needs to be regularized, which is the pre-condition put in by the said Institute. Following the reason that the genuineness of the claim of the Petitioner that he belongs to Christian-Toda-Community, which is included in the Scheduled Tribe Community, and the Application sent by the Petitioner to the Second Respondent/Tamil Nadu Public Service Commission, in this regard, is pending with the Fourth Respondent/State Level Scrutiny Committee, the Third Respondent had not sent the Petitioner to Bhavanisagar Training in the earlier three batches for want of regularization of service. In fact, his colleagues and also Juniors to him were sent for training and they satisfied the requirement of training, which is one among the essential qualifications for declaration of probation of service in the respective posts.

6.The Learned Counsel for the Petitioner submits that as per G.O.(2D) No.108, Adi Dravidar and Tribal Welfare (CV-I), Department, dated 12.09.2007, the State Level Scrutiny Committee consisting of Secretary to Government of Tamil Nadu, Adi Dravidar and Tribal Welfare Department as the Chairman; Director/Commissioner of Tribal Welfare as member Secretary and an Anthropologist as member, was already constituted to scrutinize the genuineness of the Community Certificates issued as 'Scheduled Tribes' and to pass final orders.

7.As regards the verification of Petitioner's Community Certificate mentioning his Community as Christian - Toda Scheduled Tribes Community, a Letter dated 07.02.2017, was sent by the First Respondent/Principal Secretary to Government of Tamil Nadu, Adi Dravidar and Tribal Welfare Department, to the Deputy Superintendent of Police, SC/ST Vigilance Cell, Tiruchirappalli Region. In the said Letter, the First Respondent had directed the Deputy Superintendent of Police, SC/ST Vigilance Cell, Tiruchirappalli, to verify the genuineness of the Petitioner's claim as Christian - Toda Scheduled Tribe community.

8.The Deputy Superintendent of Police, Social Justice and Human Rights i/c SC/ST Vigilance Cell, the Nilgiris had conducted an enquiry in accordance with the instructions issued by the First Respondent/The Principal Secretary to the Government of Tamil Nadu and examined the relevant Witnesses, in the presence of Petitioner and also in the presence of Village Administrative Officer and Revenue Inspector. The Deputy Superintendent of Police, after conducting an enquiry, came to the conclusion, based on relevant documents, that the Petitioner belongs to Christian - Toda Community, which was communicated to the First Respondent in the Letter dated Nil, by the Deputy Superintendent of Police, Social Justice and Human Rights, I/C SC/ST Vigilance Cell, The Nilgiris.

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

9.The categorical plea taken on behalf of the Petitioner is that when the 'Community Certificate' of the

Petitioner is found to be genuine as submitted by the Deputy Superintendent of Police, SC/ST Social Justice & Human Rights, I/C, SC/ST Vigilance Cell, The Nilgiris, The State Level Scrutiny Committee might be in a position to accept the findings of the concerned Official, based on the enquiry conducted by him and resting upon the Report of the Anthropologist, submitted to him. Further, the First Respondent/the Principal Secretary to Government of Tamil Nadu, Adi Dravidar and Tribal Welfare Department, Chennai, may be directed to convene the Chairman/the State Level Scrutiny Committee, as per Government Order in G.O. (2D) No.108, Adi Dravidar and Tribal Welfare Department, dated 12.09.2007, as he being the Chairman of Committee, to accord an approval in regard to the findings of the Deputy Superintendent of Police, Social Justice and Human Rights, I/C SC/ST Vigilance Cell, The Nilgiris.

10.The other contention put forward on behalf of the Petitioner is that the Petitioner ought not to suffer for the reason that a formal approval is pending with the Fourth Respondent/State Level Scrutiny Committee. Hence, the Petitioner has filed the present Writ Petition.

11.In this connection, it may not be out of place for this Court to make a pertinent mention that the Deputy Superintendent of Police, Social Justice and Human Rights (i/c) SC/ST Vigilance Cell, Nilgiris District, had addressed an undated communication to the First Respondent/Principal Secretary to Government, Adi Dravidar and Tribal Welfare Department, Chennai stating that he had conducted an enquiry and examined relevant Witnesses in the presence of Tmt.P.Daphne Dolly, daughter of Tr.Prem Kumar and in the presence of Ooty Rural VAO Tr.Elango, Ooty Town Revenue Inspector Tr.Muneeshwaran and also collected relevant documents. Further he had stated that the enquiry revealed that the said Tmt.P.Daphne Dolly (Petitioner herein), daughter of Tr.Prem Kumar, belongs to Christian - Thoda Community and that he has also sent his Enquiry Report and the Statement of Witnesses, the Documents collected during the enquiry, including the Anthropologist report, for necessary action.

12.In the instant case, since the First Respondent had not acted by not placing the Enquiry Report of the Deputy Superintendent of Police, Social Justice and Human Rights (i/c) SC/ST Vigilance Cell, The Nilgiris, together with relevant Documents, before the Fourth Respondent/The Chairman, State Level Scrutiny Committee, the Petitioner is performed to file the present Writ Petition, praying for passing of an Order by this Court in directing the First Respondent to place the findings of the Enquiry Report submitted by the Deputy Superintendent of Police, Social Justice and Human Rights, I/C SC/ST Vigilance Cell, The Nilgiris, before the Fourth Respondent/The Chairman, State Level Scrutiny Committee, to pass final Orders relating to the Petitioner's Community as Christian-Thoda, which is included in the Scheduled Tribe Community, within the time to be specified by this Court.

13.Considering the limited relief sought for by the Petitioner in the present Writ Petition and also this Court, taking note of the fact that the Deputy Superintendent of Police, Social Justice and Human Rights, I/C SC/ST Vigilance Cell, the Nilgiris District had addressed a Letter to the First Respondent, by sending his Enquiry Report, the Statement of Witnesses and the Documents collected during the Enquiry (inclusive of Anthropologist Report) for necessary action and inasmuch as the First Respondent has not acted till date, this Court, on the basis of equity, fair play, good conscience and even as a matter of prudence, directs the First Respondent/Principal Secretary to the Government of Tamil Nadu, Adi Dravidar and Tribal Welfare Department, Chennai, to place the Enquiry Report of the Deputy Superintendent of Police, Social Justice and Human Rights, I/C SC/ST Vigilance Cell, The Nilgiris, together with the Statement of Witnesses and Documents collected during the Enquiry (inclusive of Anthoropologist Report) before the Fourth Respondent/The Chairman, The State Level Scrutiny Committee, within a period of two weeks from the date of receipt of copy of this Order. Soon after the receipt of the Enquiry Report of the Deputy Superintendent of Police, Social Justice and Human Rights, I/C SC/ST Vigilance Cell, The Nilgiris, together with relevant enclosures, the Fourth Respondent/The Chairman, The State Level Scrutiny Committee, is directed to pass necessary Orders in the subject matter in issue within a period of two weeks thereafter.

With the above observations/directions, the Writ Petition is disposed of. No costs. Connected Miscellaneous Petition is closed.

msk

Sd/-

Assistant Registrar(cS IX)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

To

1.The Principal Secretary to
the Government of Tamil Nadu,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Fort St.George,
Chennai-600 009.

2.The Secretary,
Tamil Nadu Public Service Commission,
No.3, V.O.C.Nagar, Frazer Bridge Road,
Chennai-600 003

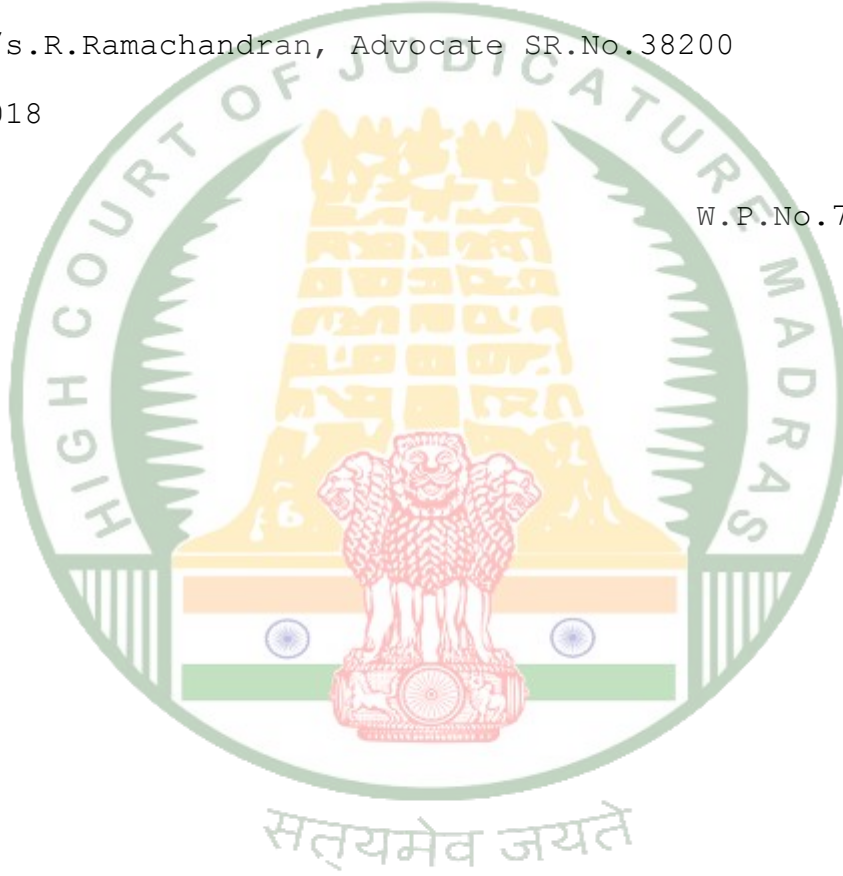
3.The Director,
Medical and Rural Health Services Department,
Chennai-600 006

4.The Chairman,
The State Level Scrutiny Committee,
rep.by Secretary to Govt.of Tamil Nadu,
Adi Dravidar and Tribal Welfare Department,
Secretariat,
Fort St.George,
Chennai-9

+1cc to M/s.R.Ramachandran, Advocate SR.No.38200

sm:19.6.2018

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