

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2018

CORAM:

THE HON'BLE MR.JUSTICE M.VENUGOPAL
AND
THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.9501 of 2018

1.The Board of Trustees of
Chennai Port Trust,
rep.by its Chairman,
Rajaji Salai,
Chennai

2.The Secretary,
Chennai Port Trust,
Rajaji Salai,
Chennai.

.... Petitioners

vs.

1.The State Level Scrutiny Committee/
Principal Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat,
Chennai-600 009.

2.C.Pasupathi

... Respondents

Prayer:-

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus, to direct the First Respondent/State Level Scrutiny Committee herein, to complete the enquiry within the time stipulated by this Hon'ble Court with regard to the Status of the 2nd Respondent herein based upon the representations of the Petitioner in Letter No.SCT2/Con.863/1991/GA, dated 11.09.2017.

For Petitioners : Mr.R.K.Karthikeyan

For Respondents : Mr.K.Rajendra Prasad,A.G.P.
For R1

ORDER

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

The Petitioners have preferred the instant Writ Petition praying for passing of an Order by this Court in directing the First Respondent/State Level Scrutiny Committee, Principal Secretary to Government, Adi Dravidar and Tribal Welfare Department, Chennai, to complete the enquiry within the time determined by this Court relating to the Community status of the Second Respondent, based upon the Representation of the Second Petitioner, dated 11.09.2017.

2.Heard the Learned Counsel for the Petitioners and the Learned Additional Government Pleader for the First Respondent.

3.To avoid an unavoidable delay, notice to the Second Respondent is dispensed with.

4.According to the Petitioners, the Second Respondent joined the services as Assistant Technician, in M & EE Department, on 06.01.1983 against a vacancy reserved for Scheduled Tribe, declaring himself as 'Konda Reddy Community' on a Certificate issued by the Tahsildar, Madurai South, during 1980. It appears that the 'Community Certificate' of the Second Respondent was sent for verification to the District Collector, Madurai, on 13.10.1992. The District Collector, Madurai, by Letter dated 13.10.1997, addressed to the District Collector, Trichy and informed that the Second Respondent belongs to Dindigul District and the Tahsildar Madurai South had no jurisdiction. Subsequently, the matter was referred to the District Collector, Trichy, to conduct an enquiry, based on the Letter of the District Collector, Dindigul, that the Second Respondent and his ancestors had left the village 50 years ago and are now residing in Siruganoor Village, Tiruchirappalli District.

5.As a matter of fact, the Second Respondent was summoned by the District Collector, Tiruchirappalli, by Letter dated 16.12.2000 and in the interregnum, the Second Respondent had projected W.P.No.3783 of 2001 against the said enquiry and this Court, on 01.08.2005, while disposing of the Writ Petition, had found that the District Level Committee consisting of two members has no authority to issue the show cause notice and accordingly quashed the impugned show cause notice. The Second Respondent filed W.P.No.39670 of 2005 to forbear the Petitioners from in any manner terminating, suspending or relieving him from the services, without awaiting the final orders that may be passed by the State Level Scrutiny Committee. This Court, while disposing of the Writ Petition, on 02.07.2017, had observed that

the writ petition was premature and it was always open to the Petitioner therein (the Second Respondent herein) to challenge the orders of the Appropriate Forum, if any.

6.The Prime grievance of the Petitioners is that they addressed numerous Letters to the First Respondent to expedite the enquiry as against the Second Respondent and that the First Respondent/State Level Scrutiny Committee/Principal Secretary to Government, Adi Dravidar and Tribal Welfare Department, Chennai-9, by its Letter No.21344/CV.III/2008-09 dated 01.03.2013 and 04.07.2013 had directed the Second Respondent to appear for enquiry and the Second Respondent did not appear for the enquiry. The First Respondent, through Letters dated 07.08.2013 and 22.04.2014 had directed the Second Respondent to appear for enquiry. The Petitioners by Letters dated 8.7.2014, 01.09.2014, 24.11.2014, 27.02.2015, 10.08.2015, 08.12.2015 and 20.04.2016 had requested the First Respondent to complete the enquiry in regard to the Community Status of the Second Respondent.

7.It comes to be known that the First Respondent through a Letter No.21334/CV-III/2008-15, dated 07.06.2016 had directed the Deputy Superintendent of Police, SC/ST Vigilance Cell, to verify the genuineness of the Community Certificate of the Second Respondent and submit a Report.

8.Not resting with the addressing of various Letters by the Petitioners, again, on 19.08.2018, 22.12.2016, 23.10.2017, 21.06.2017 the Second Petitioner had addressed Letters, making a request to the First Respondent to expedite the enquiry as against the Second Respondent, with regard to his Community status. The Second Petitioner, by a Letter dated 11.09.2017, again made a request to the First Respondent/State Level Scrutiny Committee to complete the proceedings and pass final orders with regard to the Community Status of the Second Respondent.

9.At this stage, the Learned Counsel for the Petitioners submits that in spite of the Order passed by this Court on 01.08.2005, in W.P.No.3783 of 2001, whereby and whereunder, the Division Bench of this Court had observed that the District Level Committee was not a competent authority to pass orders on the Community Certificate of the Scheduled Tribes, and even though the issue was referred to the First Respondent/State Level Scrutiny Committee, nothing tangible has been done in the subject matter in issue. Since no decision is taken on the verification of the Community status of the Second Respondent (Petitioner in W.P.No.3783 of 2001) and left with no other option, the Petitioners are perforced to approach this Court.

10.Per contra, it is the submission of the Learned

Counsel for the First Respondent/State Level Scrutiny Committee/Principal Secretary to Government, Adi Dravidar Tribal Welfare Department, Chennai, that the First Respondent/State Level Scrutiny Committee will complete the enquiry, if a reasonable time is determined by this Court to verify the Community status of the Second Respondent, based on the Representations of the Second Petitioner, dated 11.09.2017.

11.Considering the fact that this Court had earlier passed Order in W.P.No.3783 of 2001 as early as on 16.12.2000 and also this Court, taking note of the candid fact that inspite of numerous Letters addressed to the First Respondent by the Petitioners, commencing from 08.07.2014 till 14.09.2017, and in view of the fact that no progression has been made in the subject matter in issue, this Court, on the basis of equity, fair play, good conscience and even as a matter of prudence, directs the First Respondent/State Level Scrutiny Committee/Principal Secretary to Government, Adi Dravidar and Tribal Welfare Department, to look into the Representation of the Second Petitioner, dated 11.09.2017, with all seriousness and earnestness and to complete the enquiry with regard to the Community status of the Second Respondent within a period of four weeks from the date of receipt of copy of this Order. Soon after completion of enquiry within the time determined by this Court, in the present Writ Petition, a 'Compliance Report' shall be submitted by the First Respondent/State Level Scrutiny Committee by addressing a communication to the Registrar (Judicial) of this Court, without fail. Before parting with the case, this Court makes it quite clear that if the enquiry is not completed within the time stipulated by this Court in the present Order and also if no 'Report' is filed by the First Respondent, then, it is open to the Petitioners to initiate necessary Contempt Proceedings, of course, in accordance with Law, in which event, the First Respondent may have to appear in person before this Court and explain the reasons for non-compliance of the Order passed by this Court.

With the above Observations/Directions, the Writ Petition is disposed of. No costs.

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Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

msk

To

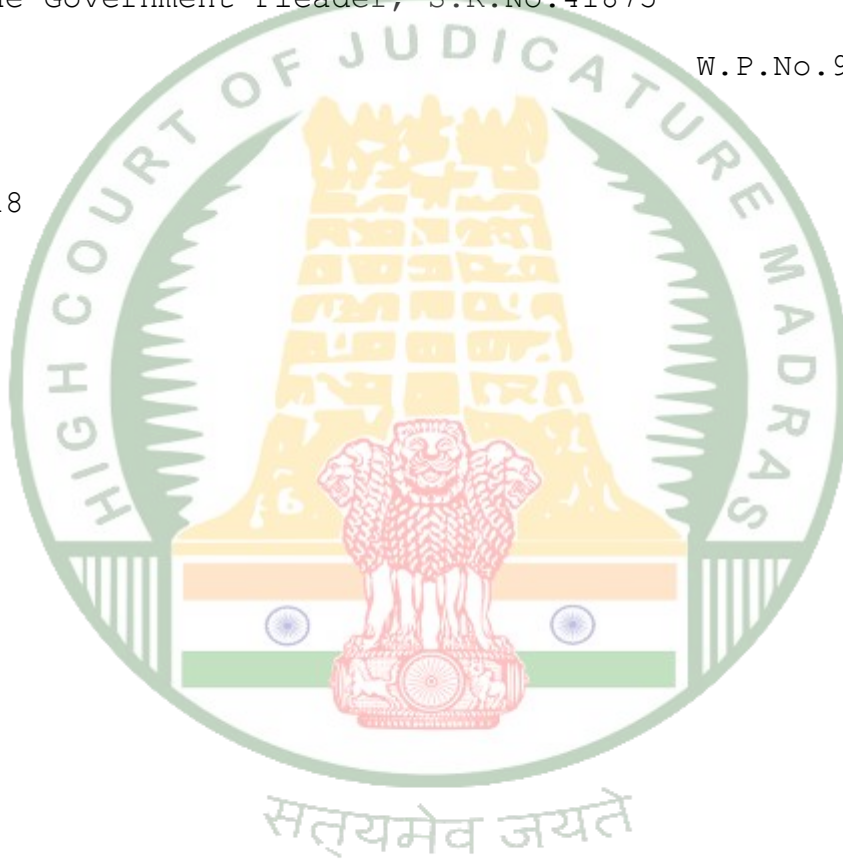
1. The State Level Scrutiny Committee/
Principal Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat,
Chennai-600 009.
2. The Registrar General,
High Court, Madras.

+lcc to Mr.R.K.Karthikeyan, Advocate, S.R.No.41482

+lcc to the Government Pleader, S.R.No.41875

W.P.No.9501 of 2018

MR(CO)
CS/02/07/18



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