

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.02.2018
Coram

The Hon'ble Mr. Justice R. Subbiah
and
The Hon'ble Mr. Justice P.D. Audikesavalu

W.P.No.782 of 2018
and
C.M.P.No.945 of 2018

L. Krishnan ...Petitioner
Vs

1. The Principal Secretary to Government,
Adi Dravidar and Tribal,
Welfare (cv-4) Department,
Secretariat,
Chennai-600 009.
2. The Director Tribal Welfare,
Tribal Welfare Department,
Chepauk,
Chennai-600 005.
3. The Sub-Collector,
Office of the Sub-Collector,
Gobichettipalayam.
4. M. Ravichandran,
Deputy Superintendent of Police,
SC/ST Vigilance Cell, Salem Region,
Collectorate, Salem.
5. The Deputy Superintendent of Police,
Social Welfare and Human Rights Section,
Vigilance Cell, Erode. ...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India this Court prays to issue a Writ of Certiorarified Mandamus to call for the records of the 5th respondent by proceedings, dated 03.01.2018 and to quash the same and consequently forbearing the 5th respondent from conducting enquiry and verifying the community status of the petitioner.

For Petitioner : Mr.P.Saravana Sowmiyan

For Respondents : Ms.Thanga Vadhana Balakrishnan
Government Advocate

O R D E R

(Order of the Court was delivered by R.Subbiah,J.)

Heard Mr.P.Saravana Sowmiyan, the learned counsel appearing for the petitioner and Ms.Thanga Vadhana Balakrishnan, the learned Government Advocate for the respondents.

2. The petitioner has filed this Writ Petition, seeking to quash the proceeding of the fifth respondent, dated 03.01.2018, whereby, the petitioner was called upon to appear for enquiry with regard to the verification of his community status, and the petitioner sought for a mandamus, forbearing the fifth respondent from conducting any such enquiry. It is the fourth round of litigation, the petitioner is before this Court, with the regard to the enquiry for verification of the genuineness of his community certificate.

3. The facts, which led to the filing of this Writ Petition are as follows:-

i) The petitioner claims that, he belonged to Konda Reddy Community, which is recognized as scheduled tribe. The genuineness of the petitioner's community certificate was doubted, and the District Collector, Erode District, by order, dated 17.01.1990, cancelled the petitioner's community certificate. Challenging the said order, earlier, the petitioner came up with a Writ Petition and the said Writ Petition was allowed by this Court, the order, cancelling the petitioner's community certificate was set aside, and the matter was remanded to the District Collector for de novo enquiry and to pass orders in accordance with law. सत्यमेव जयते

ii) In the meanwhile, the District Level Vigilance Committee was constituted by the Government, and the Committee, by order, dated 22.07.2006, summoned the petitioner for verification of the community certificate. Aggrieved by the same, the petitioner filed W.P.No.36558 of 2006, seeking to quash the same. This Court, by order, dated 18.03.2009, allowed the Writ Petition, and remanded the matter to the State Level Scrutiny Committee to consider the petitioner's claim and pass orders, since, as per the Government Order, in G.O.(Ms)No.108 Adi Dravidar and Tribal Welfare (CV-I) Department, the matters pertaining to the community certificate of the scheduled tribes has to be dealt with by the State Level Scrutiny Committee.

Pursuant to the said order, the issue regarding the verification of the petitioner's community certificate was pending before the State Level Scrutiny Committee.

iii) In the interregnum, the Government, vide its order, dated 15.10.2012, in G.O.Ms.No.106 of Adi Dravidar and Tribal Welfare Department, constituted a vigilance cells, headed by Senior Deputy Superintendent of Police accompanied by a Inspector/Sub-inspector of Police and a Police Constable, to verify the community status of the persons belonging to Scheduled Castes/Scheduled Tribes and to submit its report to the competent Committee. The petitioner came to understand that the State Level Scrutiny Committee has referred his case to the Vigilance Cell for the verification of the community status.

iv) While things stood thus, the Sub-Collector, Gobichettipalayam, by proceeding, dated 14.01.2015, directed the petitioner to appear for enquiry to verify his community certificate. Since the Sub Collector has no jurisdiction to issue such proceeding, the petitioner filed Writ Petition in W.P.No.4498 of 2015, and this Court, by order, dated 28.11.2016, disposed of the Writ Petition by directing the petitioner to appear for enquiry before the respondent/Sub Collector, Gobichettipalayam, along with necessary documents to support his claim and after affording an opportunity of being heard, the Sub Collector was directed to pass necessary orders.

v) Thus, the issue regarding verification of the community certificate is now pending before the third respondent. Whiles, the fifth respondent, by proceeding, dated 03.01.2018, directed the petitioner to appear for enquiry on 03.01.2018. Feeling aggrieved, the present Writ Petition is filed.

4. The learned counsel appearing for the petitioner submitted, if the respondents 3 to 5 are allowed to conduct independent/parallel enquiry with regard to the very same issue, it would not only create confusion, but also result in conflicting reports, and ultimately, it would cause serious prejudice to the petitioner.

5. The learned Government Advocate appearing for the respondents would submit that, the second respondent has filed a counter affidavit, inter alia contending that, as per the law laid down by the Hon'ble Supreme Court, in Venkitasamy Vs. Chaiman, in W.P.Nos.30368 and 31973 of 2016, dated 21.12.2015, and the Government Order passed in G.O.Ms. No.50 of Adi Dravidar and Tribal Welfare Department, dated 28.07.2017, the fifth respondent is the competent Authority to conduct enquiry with

regard to the verification of the scheduled tribe community status. Therefore, the learned Government Advocate submits that, the fifth respondent may be directed to conduct enquiry with regard to the petitioner's case and submit a report to the State Level Scrutiny Committee, for passing appropriate orders.

6. In the light of the above submission, this Writ Petition is disposed of, by directing the fifth respondent to conduct enquiry with regard to the scheduled tribe community certificate status of the petitioner and submit a report to the State Level Scrutiny Committee, and based on the said report, the State Level Scrutiny Committee shall pass appropriate orders as expeditiously as possible, and the respondents shall ensure that the petitioner is not unnecessarily driven to the necessity of any further litigation with regard to the very same issue. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government,
Adi Dravidar and Tribal,
Welfare (cv-4) Department,
Secretariat,
Chennai-600 009.

2. The Director Tribal Welfare,
Tribal Welfare Department,
Chepauk,
Chennai-600 005.

3. The Sub-Collector,
Office of the Sub-Collector,
Gobichettipalayam.

4. M. Ravichandran,
Deputy Superintendent of Police,
SC/ST Vigilance Cell, Salem Region,
Collectorate, Salem.

5. The Deputy Superintendent of Police,
Social Welfare and Human Rights Section,
Vigilance Cell, Erode.

+1cc to Government Pleader SR.No.13692

W.P.No.782 of 2018

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