

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.No.20536 of 2018
and
W.M.P.No.24149 of 2018

K.Karuppasamy

... Petitioner

Vs.

1. The Tamil Nadu State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavignar Maligai,
Secretariat, Chennai-600 009,
Rep. by its Chairman.
2. The Director of Tribal Welfare Department,
Chepauk, Chennai-600 005.
3. Mr.Sakthivel ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents 1 and 2 to consider the representation of the petitioner, dated 12.05.2018 and conduct enquiry by some other officer other than the third respondent regarding social status of the petitioner (verification of the genuineness of the Community Certificate of the petitioner).

For petitioner :Mr.V.Elangovan

For respondents:Mr.K.Rajendra Prasad,
Addl.G.P. for RR-1 and 2
Mr.A.Prakash for R-3

ORDER

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

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents 1 and 2 to consider the representation of the petitioner, dated

12.05.2018 and conduct enquiry by some other officer other than the third respondent regarding social status of the petitioner (verification of the genuineness of the Community Certificate of the petitioner).

2. It is the case of the petitioner that he belongs to Kattu Nayakan Community, which is a Scheduled Tribe. His native village is Vedapatti in Vedachandur Taluk, Dindigul District. His parents and grandparents were engaged in collecting honey, wood cutting and sooth-saying. The petitioner's father was staying in a Village near Tenkasi, Krishnapuram between 1985 and 1995 for his livelihood. The petitioner's father preferred an application to the Revenue Divisional Officer (RDO), Tenkasi to issue a Community Certificate to the petitioner that he belongs to Kattu Nayakan (ST) Community. The RDO, after due enquiry, issued a Community Certificate on 18.08.1993. On the basis of the above Community Certificate, the petitioner was appointed as a Security Guard in the Air India in the year 1997. Now, after 20 years of service, the petitioner is holding the post of Senior Security Assistant. In fact, by the time, the petitioner's Community Certificate was lost when he was residing at Villivakkam and hence, he gave a Police complaint to the Villivakkam Police and preferred an application to the P.A. to Collector, Chennai, to issue fresh Community Certificate in the format. The P.A. to Collector, after due enquiry and verification, issued Community Certificate on 30.09.1999 stating that the petitioner belongs to Kattu Nayakan (ST) Community.

3. On the basis of the request made by the petitioner's employer, the first respondent referred the matter to the District Collector, Tirunelveli for verification of his Community Certificate. The District Level Committee issued notice to the petitioner for enquiry. Since the District Level Committee has no authority to verify the genuineness of Community Certificate of Scheduled Tribe after the Government Order in G.O.(2D).No.108, Adi Dravidar and Tribal Welfare Department, dated 12.09.2007, the petitioner filed a Writ Petition in W.P.(MD).No.16657 of 2012, in which, by order dated 19.12.2012, this Court set aside the enquiry-notice issued by the District Level Committee and referred the matter to the State Level Scrutiny Committee for verification of the Community Certificate.

4. Thereafter, the State Level Scrutiny Committee referred the matter to the third respondent-Deputy Superintendent of Police, Social Justice and Human Rights and Vigilance Cell, Tirunelveli, who is impleaded in this Writ Petition by name Sakthivel, to conduct enquiry in accordance with G.O.(Ms.). No.106, Adi Dravidar and Tribal Welfare Department, dated 15.10.2012. While so, one Arumugam, Sub-Inspector of Police came

to the petitioner's house on 04.05.2018 and directed the petitioner to appear before the third respondent on 10.05.2018 and he collected the petitioner's cell number and went back. Subsequently on 07.05.2018, the third respondent asked the petitioner as to when he will appear for the enquiry. The petitioner informed him that he requires some time to collect the documents as per the direction of the Sub-Inspector. However, the third respondent directed the petitioner to appear in person on 11.05.2018 and make submission in person.

5. Thereafter, on 11.05.2018 around 11.45 a.m., the petitioner appeared before the third respondent along with his son and produced all documents available with him. The allegation of the petitioner is that with no provocation, he started scolding the petitioner in filthy language, by calling his community name and asked the petitioner to write the details about his community and himself. While the petitioner was writing the statement, the third respondent continued to scold the petitioner in indecent words. On the second day also, he was asked to appear, on which date, there was same treatment to the petitioner.

6. Further, on 12.05.2018, the petitioner made a complaint/representation to the respondents 1 and 2 about the conduct of the third respondent. They did not take any action against the third respondent. In such circumstances, again on 02.08.2018, the third respondent directed the petitioner to appear for the enquiry within 5 days stating that the same is the final notice. The third respondent wants to conduct enquiry like any other Police Officer in a criminal case as if the petitioner committed an offence. If the third respondent conducts the enquiry, the petitioner will not get any justice. Hence, the petitioner has filed this Writ Petition for the relief stated supra.

7. The third respondent has filed counter affidavit denying the allegations by stating that the Government of Tamil Nadu has given training to the Social Justice-cum-Human Rights Wing-Deputy Superintendent of Police for verifying the Community Certificates and also issued guidelines to them in that regard. The third respondent attended training which was conducted in Chennai Headquarters and other places with the trainers and well-known scientific experts who are all specialised in finding out the fake documents. By letter dated 22.08.2017, the Principal Secretary to Government, Adi Dravidar and Tribal Welfare Department, Secretariat, Chennai, has directed the second respondent to verify the genuineness of the petitioner's Community Certificate. Further, on 01.08.2017, a communication was sent to the petitioner to appear before the third respondent with the documents and also to conduct local inspection. After

receipt of the summons, the petitioner came to the office of the third respondent and he refused to answer the third respondent's questions properly and the petitioner requested the third respondent to give some more time for producing evidence. Accordingly, the third respondent directed the petitioner to produce the required documents at the earliest so as to enable the third respondent to send a report to the Principal Secretary, Adi Dravidar and Tribal Welfare Department. The third respondent specifically states that the petitioner appeared for the enquiry only once and never turned back again to attend the further enquiry. To the third respondent's shock and surprise, the third respondent received a counsel's notice about the filing of the Writ Petition, when there is absolutely no cause and it is made only to derail the process.

8. It is further stated in the counter affidavit that since 29.07.1987 when the third respondent was appointed as Sub-Inspector of Police, he had put in 31 years of service and he has unblemished records in his career. On the third respondent's thorough enquiry and investigation, the third respondent came to know that the petitioner is having no relatives in Puliyanakudi. The mother tongue of Kattu Nayakan Community is Telugu, but the petitioner does not know Telugu and the name of the petitioner is Karuppasamy, who does not belong to the said Community. The petitioner has mentioned in his application that his father's name is Krishnan, which shows that he belongs to Naidu Community and no Kattu Nayakan Community person is named as Krishnan. The petitioner's father does not belong to the said Village and he came to Tirunelveli only for smuggling and was said to be an expert in tree cutting. The Village Administrative Officer of Krishnapuram Village, Kadaiyanallur Taluk also certified that the petitioner is not the resident of the said Village and not known about his place of residence. Based on the fake certificate issued to his father who got a Scheduled Tribe Certificate, the petitioner also got the said Community Certificate by mentioning his caste name as Kattu Nayakan on 10.08.1993 from the Revenue Divisional Officer, Tenkasi. After the third respondent's thorough enquiry and investigation, he came to know that the petitioner had been making false claim and that his Community Certificate is false and to escape from the clutches of law, the petitioner cooked up a story that the third respondent has ill-treated him by allegedly scolding him in filthy language calling his community name. The third respondent reserves his right to sue the petitioner before the Competent Court of Law for making false allegations against the third respondent.

9. The petitioner has filed reply affidavit stating that the third respondent has not undergone any training as stated by him and as per the information furnished by the Public

Information Officer, Tribal Research Centre, Udhagamandalam, no such training was given to any of the Police Officer. The third respondent made discreet enquiry and came to wrong conclusion and hence, he cannot continue as the enquiry officer. The petitioner also reserves his right to proceed against the third respondent for criminal defamation under Section 500 IPC for calling his father as a smuggler.

10. Heard both sides and perused the materials available on record.

11. Be that as it may. Without going into the merits of the contentions raised by both parties against each other, this Court finds that a complaint (representation) was already given to the first and second respondents on 12.05.2018. Therefore, it would be appropriate for the second respondent to consider the said representation.

12. Considering the above facts and circumstances of the case, this Court, without going into the merits of the matter, directs the second respondent to consider the said complaint/representation, dated 12.05.2018, provide an opportunity of hearing to the petitioner and other necessary parties, if any who are likely to be affected, including the third respondent and pass appropriate orders and dispose of the said complaint/representation, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner and it is for the second respondent to decide the same at the time of disposing of the said complaint/representation, dated 12.05.2018, purely on merits.

13. With the above observations and direction, the Writ Petition is disposed of. No costs. Consequently, W.M.P. is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

CS

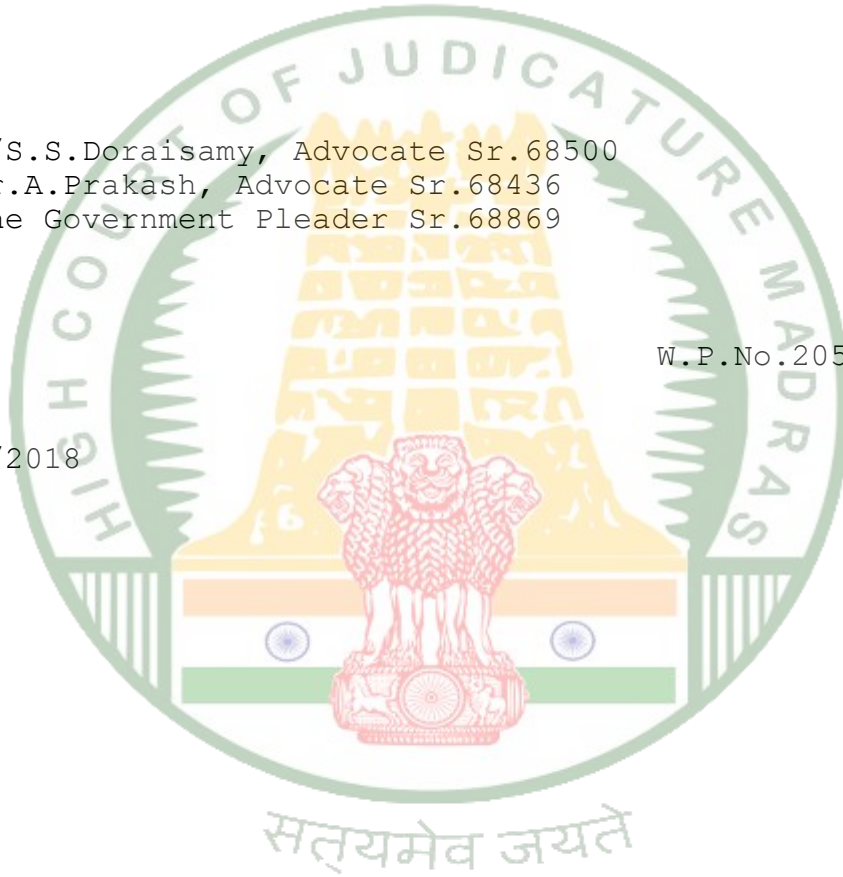
To

1. The Chairman,
The Tamil Nadu State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavignar Maligai,
Secretariat, Chennai-600 009.
2. The Director of Tribal Welfare Department,
Chepauk, Chennai-600 005.

+1cc to M/S.S.Doraisamy, Advocate Sr.68500
+1cc to Mr.A.Prakash, Advocate Sr.68436
+1cc to the Government Pleader Sr.68869

W.P.No.20536 of 2018

srg 30/10/2018



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