

IN THE JUDICATE OF MADRAS HIGH COURT

DATE : 13.03.2018

CORUM

THE HON'BLE MR.JUSTICE R.SUBBIAH
and
THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

W.P.No.27308 of 2017
and WMP No.29153 of 2017

Uma

... Petitioner

Vs.

1. The Secretary,
Adi-Dravidar and Tribal Welfare (CV3) Department,
Secretariat,
Chennai - 600 009
2. The Tamil Nadu State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Naamakkal Kavignar Maligai,
3rd floor, Secretariat,
Chennai - 600 009.
3. The District Adi Dravidar and Tribal Welfare Officer,
Collectorate, Salem.
4. The Deputy Superintendent of Police,
SC/ST Vigilance Cell,
Salem Zone, NO.109,
Collectorate Office, Salem.

..... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records in proceedings No.965/CVIII/2013 dated 31.08.2017 on the file of the second respondent and quash the same and directing the second respondent to grant Scheduled Tribe Community Certificate mentioning that the petitioner is belonging to "Kurichan" community.

For petitioner

: Mr.R. Rajarajan

For Respondents

: Mr.N. Parthasarathy
Government Advocate

ORDER

(Order of the Court was made by P.D.AUDIKESSAVALU, J.)

The petitioner, who holds a Scheduled Tribe Community Certificate dated 15.06.1981 issued by Deputy Tahsildar, Pennagaram as belonging to Kurichan Community, challenges the Order dated 31.08.2017 passed by the Second Respondent/State Level Scrutiny Committee, cancelling her aforesaid community certificate in this Writ Petition.

2. This Court, by an Order dated 24.02.2017 in the earlier Writ Petition bearing W.P.No.4727 of 2017 filed by the petitioner, had directed the Second Respondent/ State Level Scrutiny Committee to conclude the proceedings for the verification of the Scheduled Tribe Community status of the petitioner expeditiously within a period of three months from the date of receipt of a copy of that order.

3. In pursuance thereof, the Fourth Respondent viz., the Deputy Superintendent of Police, SC/ST Vigilance Cell, Salem Zone had submitted a report dated 06.02.2017 in respect of the verification of the Scheduled Tribe Community Certificate of the Petitioner to the Second Respondent/State Level Scrutiny Committee. The Petitioner, who had been served with the copy of the said report, had challenged the same in another Writ Petition bearing W.P No.18992 of 2017 before this Court, which was disposed of in the admission stage itself on 31.07.2017 holding follows:

" 3. Though certain flaws in the process adopted by the Vigilance Cell are complained in the affidavit filed in support of the writ petition, there is conspicuously no explanation as to how the same would cause any prejudice to the petitioner at this stage. It is needless to point out here that the impugned report of the Vigilance Cell is akin to an enquiry report in a disciplinary proceeding and as such, the petitioner can place all her objections for the findings in that report by way of a representation before the State Level Scrutiny Committee which is verifying her Community Certificate. Hence, we do not find any ground to entertain this premature Writ Petition and interfere with the ongoing

process of verification of the Community Certificate of the petitioner.

4. On receipt of such representation of the petitioner within a period of two weeks from today, the State Level Committee shall examine each of the objections raised by the petitioner and after affording her full opportunity of hearing, including production of documents and examination of witnesses, if any, shall pass reasoned orders on the verification of the Scheduled Tribe Community Certificate of the petitioner on merits and in accordance with law, taking note of the relevant Governmental Orders and binding Judicial decisions governing the subject. The aforesaid exercise shall be completed by the State Level Scrutiny Committee within a period of eight weeks from the date of receipt of the aforesaid representation of the petitioner and a report in compliance of the action taken shall be filed to the Registrar (Judicial) of this Court, within a period of two weeks thereafter.

4. According to the Petitioner, after receiving a copy of the aforesaid order passed by this Court, which was issued by the Registry of this Court on 29.08.2017, she had submitted a representation dated 11.09.2017 to the Second Respondent/State Level Scrutiny Committee, for which proof of despatch of the same by Registered Post on 12.09.2017 has been produced. However, it appears that the Second Respondent/State Level Scrutiny Committee, had in the interregnum passed final orders in the proceedings for verification for Scheduled Tribe Community Certificate of the Petitioner by Order dated 31.08.2017, which is impugned in this writ petition on the ground that the directions of this Court in the Order dated 31.07.2017 in W.P.No.18992 of 2017 have not been carried out.

5. The learned Government Advocate appearing on behalf of the Respondents submits that though the Respondents had been represented through Counsel during the hearing on 26.07.2017 when the Writ Petition bearing W.P.No.18992 of 2017 came up for admission before this Court, the concerned officials did not have any personal knowledge of the directions issued by this Court in the Order dated 31.07.2017 passed in that Writ Petition

and before that order could be communicated to them, the impugned order had been issued on 31.08.2017. It is further pointed out that on receipt of the report dated 06.02.2017 from the Fourth Respondent, the Petitioner had already submitted a representation dated 01.04.2017, as indicated in para 4 of the impugned order and as such, when the petitioner had already been given sufficient opportunity to explain her case before the Second Respondent, the impugned order does not require to be interfered with.

6. We have carefully considered the rival submissions made by the learned counsel on both sides.

7. On a perusal of the materials placed on record, it is noticed that though the Petitioner had submitted her explanation dated 01.04.2017 as reply to the show cause notice for the report of the Fourth Respondent/ Vigilance Cell, there has not been any consideration of the same in the impugned order. That apart, the Petitioner has also sent another representation dated 11.09.2017 pursuant to the order dated 31.07.2017 passed by this Court in W.P.No.18992 of 2017, which has been apparently received by the Second Respondent after passing of the impugned order, which also requires to be examined by the Second Respondent in terms of the directions issued by this Court in that regard.

8. In the aforesaid circumstances, we are of the considered view that the impugned order No.965/CVIII/2013 dated 31.08.2017 passed by the Second Respondent/State Level Scrutiny Committee cancelling the Scheduled Tribe Community Certificate of the Petitioner cannot be sustained and the same is accordingly set aside. It is incumbent upon the Second Respondent/State Level Scrutiny Committee to dispassionately examine each of the objections raised by the Petitioner in her explanation dated 01.04.2017 as well as her representation dated 11.09.2017 against the findings in the report dated 06.02.2017 submitted by the Fourth Respondent/Vigilance Cell and after affording the petitioner full opportunity of hearing, including production of documents and examination of witnesses, if any, pass reasoned orders on the verification of her Scheduled Tribe Community Certificate on merits and in accordance with law, taking note of the relevant Governmental Orders and binding judicial decisions governing the subject and communicate the decision taken to the Petitioner and her employer and submit a report for such compliance of the action taken to the Registrar (Judicial) of this Court on or before 30.04.2017.

9. The Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected WMP is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sr

To

1. The Secretary,
Adi-Dravidar and Tribal Welfare (CV3) Department,
Secretariat,
Chennai - 600 009
2. The Tamil Nadu State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Naamakkal Kavignar Maligai,
3rd floor, Secretariat,
Chennai - 600 009.
3. The District Adi Dravidar and Tribal Welfare Officer,
Collectorate, Salem.
4. The Deputy Superintendent of Police,
SC/ST Vigilance Cell,
Salem Zone,
NO.109, Collectorate Office, Salem.

Copy to

The Registrar Judicial,
High Court, Madras-104.

+1cc to Mr.G.Rajan, Advocate, S.R.No.18711

CS/05/04/18

W.P.No.27308 of 2017

WEB COPY