

In the High Court of Judicature at Madras

Dated: 17.07.2018

Coram:

The Hon'ble Mr.Justice M.VENUGOPAL
and
The Hon'ble Mr.Justice M.NIRMAL KUMAR

W.P.No.13078 of 2018
and
W.M.P.No.15368 of 2018

L.Krishnan .. Petitioner

Vs.

1.The Chairman,
State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Secretariat,
Chennai-600 009.

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

3.The Manager (P & IR),
LIC of India,
Divisional Office,
Coimbatore-641 018.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for a writ of Mandamus, directing the First Respondent to consider the representation of the petitioner dated 07.03.2018 and to pass orders in accordance to law with respect of maintainability of verification of petitioner's community certificate by the First Respondent and consequently forbearing the Second Respondent from conducting enquiry and verifying the community status of the Petitioner.

For Petitioner : Mr.P.Saravana Sowmiyan

For Respondent : Mr.K.Rajendra Prasad
Nos.1 & 2 Additional Government Pleader

For Respondent : Mr.M.Vaidhiyanathan
No.3

O R D E R

[Order of the Court was made by
M.VENUGOPAL, J.]

The Petitioner in the main Writ Petition has sought for passing of an order by this Court in directing the First Respondent/the Chairman, State Level Scrutiny Committee, Adi Dravidar and Tribal Welfare Department, Secretariat, Chennai to consider his representation dated 07.03.2018 and to pass orders in accordance with law in regard to the maintainability of verification of his Community Certificate and subsequently, forbearing the Second Respondent/the Deputy Superintendent of Police, Social Welfare and Human Rights Section, Vigilance Cell, Erode from conducting enquiry and verifying his Community Status.

2.Heard Mr.P.Saravana Sowmiyan, Learned counsel for the Petitioner and Mr.K.Rajendra Prasad, Learned Additional Government Pleader appearing on behalf of the Respondents 1 & 2 as well as Mr.M.Vaidhiyanathan, Learned counsel for the Third Respondent.

3.The Petitioner was appointed as Assistant under the Scheduled Tribe quota on 12.06.1981 in the office of the Third Respondent/the Manager (P & IR), LIC of India, Divisional Office, Coimbatore. His Community was also entered in his service book. According to him, he obtained several promotions because of his services were appreciated by the concerned authorities and indeed, in April 2016, he was promoted as Divisional Manager. His Community Certificate, on the basis of the discreet enquiry was cancelled by the District Collector, Erode on 17.01.1990 and the same was set aside by this Court by remanding the matter back to the District Collector, Erode for de novo enquiry and for passing orders in accordance with Law. In the meanwhile, the District Level Vigilance Committee was constituted by the Government and his issue was pending before the District Level Vigilance Committee, Erode District, Erode.

4.It comes to be known that the District Level Vigilance Committee, Erode through an order dated 22.07.2006 summoned the Petitioner for verification of his Community Certificate. Aggrieved over the same, he filed W.P.No.36558 of 2006 assailing the said order. On 18.03.2009, this Court was pleased to allow the Writ Petition by remitting the matter to the First Respondent for his decision in view of the order of the Government in G.O.(2D) No.108, Adi Dravidar and Tribal Welfare (CV-1) Department, dated 12.09.2007. Admittedly, the verification of the Petitioner's Community Certificate is pending before the First Respondent/State Level Scrutiny Committee.

5.The Learned counsel for the Petitioner points out that the First Respondent Committee had referred the Petitioner's case for the respective Vigilance Cell for verification of his Community Status. While that being so, the Sub Collector of Gobichettipalayam by means of proceedings dated 14.01.2015, directed him to appear for an enquiry in regard to the verification of his Community Certificate. Since the Sub Collector, Gobichettipalayam has no jurisdiction to verify his Community Certificate, he was perforced to prefer W.P.No.4498 of 2015 before this Court on 28.11.2016. This Court had directed him to make a reply to the notice issued by the Sub Collector, Gobichettipalayam and thereafter, he was directed to consider the reply and pass orders. In fact, the said order was communicated to the Third Respondent/the Manager (P & IR), LIC of India, Divisional Office, Coimbatore and no order was passed by the Third Respondent. While the Writ Petition was pending, the First Respondent/State Level Scrutiny Committee by letter dated 08.09.2016, had directed the Second Respondent/the Deputy Superintendent of Police, Social Welfare and Human Rights Section, Vigilance Cell, Erode to verify the genuineness of the Petitioner's Community Certificate.

6.It is the plea of the Petitioner that his brother's son Mr.P.Bharath, S/o.M.L.Padmanabhan had applied for issuance of Scheduled Tribe Community Certificate based on his father's Community Certificate issued by the then Competent Authority, Tahsildhar, Bhavani on 23.08.1962. His application is pending before the First Respondent/State Level Scrutiny Committee. The First Respondent by letter dated 10.06.2015 directed the Second Respondent /the Deputy Superintendent of Police, Social Welfare and Human Rights Section, Vigilance Cell, Erode to conduct enquiry and submit his report for issuance of Community Certificate for his brother's son. In the enquiry report, the Second Respondent came to the conclusion that the Petitioner's family belongs to Reddiar Community and their claim is not genuine. सत्यमेव जयते

7.The Learned counsel for the Petitioner submits that the Second Respondent had already pre-determined the issue of Community Certificate and as such, he will not be in a position to conduct fresh enquiry. Moreover, the enquiry conducted by the Second Respondent will be biased and unfair resulting in serious miscarriage of justice. Apart from that, this Court in an earlier occasion, had directed the Sub Collector to conduct enquiry and in order to avoid parallel enquiry, the Petitioner filed W.P.No.3464 of 2017 before this Court assailing the order of the First Respondent dated 08.09.2016 objecting the enquiry to be conducted by the Second Respondent on the ground that as per the order of this Court in W.P.No.4498 of 2015, enquiry is pending before the Sub Collector and the Second Respondent cannot conduct simultaneous enquiry. However, this Court on 13.02.2017 passed an order permitting the Petitioner to withdraw the Writ

Petition with liberty to establish his claim with reference to relevant materials before the Authority itself.

8. Added further, the Petitioner filed W.P.No.782 of 2018 before this Court, in which, this Court passed an order on 20.02.2018 directing the Second Respondent/the Deputy Superintendent of Police, Social Welfare and Human Rights Section, Vigilance Cell, Erode alone to conduct the enquiry.

9. When that be the fact situation, the Petitioner points out that the Second Respondent had directed him to appear for an enquiry on 09.05.2018, for which, he sent a reply on 02.05.2018 stating that his application dated 07.03.2018 is pending in regard to the jurisdiction of the First Respondent itself for verifying the genuineness of his Community Certificate as there was no complaint on his Community Certificate. Hence, he submitted a representation dated 07.12.2017 to the Third Respondent requesting to furnish the documents referred thereto for submitting the same to the First Respondent. The First Respondent had not considered the Petitioner's representation dated 07.03.2018 and the same is still pending and also that the Third Respondent had failed to consider the Petitioner's representation, hence, the Petitioner has filed the present Writ Petition seeking for issuance of necessary direction to the First Respondent/State Level Scrutiny Committee, Chennai to consider his representation dated 07.03.2018 and to pass orders in accordance with Law etc.

10. Conversely, it is the submission of the Learned Additional Government Pleader for the Respondents 1 and 2 that the Petitioner is not co-operating before the Second Respondent/ the Deputy Superintendent of Police, Social Welfare and Human Rights Section, Vigilance Cell, Erode and for four times, he has not rendered his assistance and unstinted co-operation with a view to enable the Second Respondent to complete the enquiry in the subject matter in issue.

11. The Learned Additional Government Pleader for the Respondents 1 and 2 brings it to the notice of this Court that by means of communications dated 13.04.2018 & 30.04.2018, the petitioner was directed to appear for an enquiry in connection with the Caste Certificate (along with documents on 09.04.2018 at 12.00 Noon and 09.05.2018 at 12.00 Noon) and on both the occasions, the Petitioner had not appeared and remained absent.

12. In this connection, it is brought to the notice of this Court on behalf of the Petitioner that the Petitioner had addressed a written communication on 02.05.2018 to the Second Respondent praying for adjourning the enquiry till he obtains the copy of the order passed in W.P.No.782 of 2018 etc. It is not out of place for this Court to make a significant mention

that W.P.No.782 of 2018 was disposed as early as on 20.02.2018.

13. On a careful consideration of the respective contentions and also this Court taking note of the fact that the issue of Community Certificate of the Petitioner is pending for consideration and for passing necessary orders by Competent Authority for a quiet long period, this Court without delving deep into the subject matter and also not expressing any of its opinion in one way or other, based on equity, fair play, good conscience and even as a matter of prudence, at this stage, directs the Petitioner to take part in the enquiry before the Second Respondent and in this regard, the Second Respondent is directed to send a communication to the Petitioner specifying the time as well as the relevant date for his appearance and on receipt of the said communication of the Second Respondent, the Petitioner is directed to appear before the Second Respondent for an enquiry without fail. Further, the Petitioner is directed to offer his unstinted co-operation and assistance to the Second Respondent/ the Deputy Superintendent of Police, Social Welfare and Human Rights Section, Vigilance Cell, Erode without making any further excuse in the subject matter in issue. Continuing further, the Petitioner is directed to avail the said opportunity to be provided by the Second Respondent, in case of any default or failure of the Petitioner to appear on the specified date and time by the Second Respondent, then, it is open to the Second Respondent/ the Deputy Superintendent of Police, Social Welfare and Human Rights Section, Vigilance Cell, Erode to pass necessary further orders without any haziness or hesitation whatsoever and to submit the said order before the First Respondent by means of his report. When the Petitioner appears before the Second Respondent, after receipt of communication from the latter, then, it is needless for this Court to point out that the Second Respondent shall consider the representation of the Petitioner in a fair, just, unbiased and in a dispassionate manner. Before parting with the present case, this Court grants liberty to the Petitioner to produce necessary documents and relevant records before the Second Respondent during the time of enquiry.

14. With the above observations and directions, the Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is also closed. No costs.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

To

1.The Chairman,
State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Secretariat,
Chennai-600 009.

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

3.The Manager (P & IR),
LIC of India,
Divisional Office,
Coimbatore-641 018.

+ 1 cc to Mr.P. Saravana Sowmiyan, Advocate Sr.47697

+ 1 cc to Mr. M. Vaidyanathan, Advocate Sr.47127

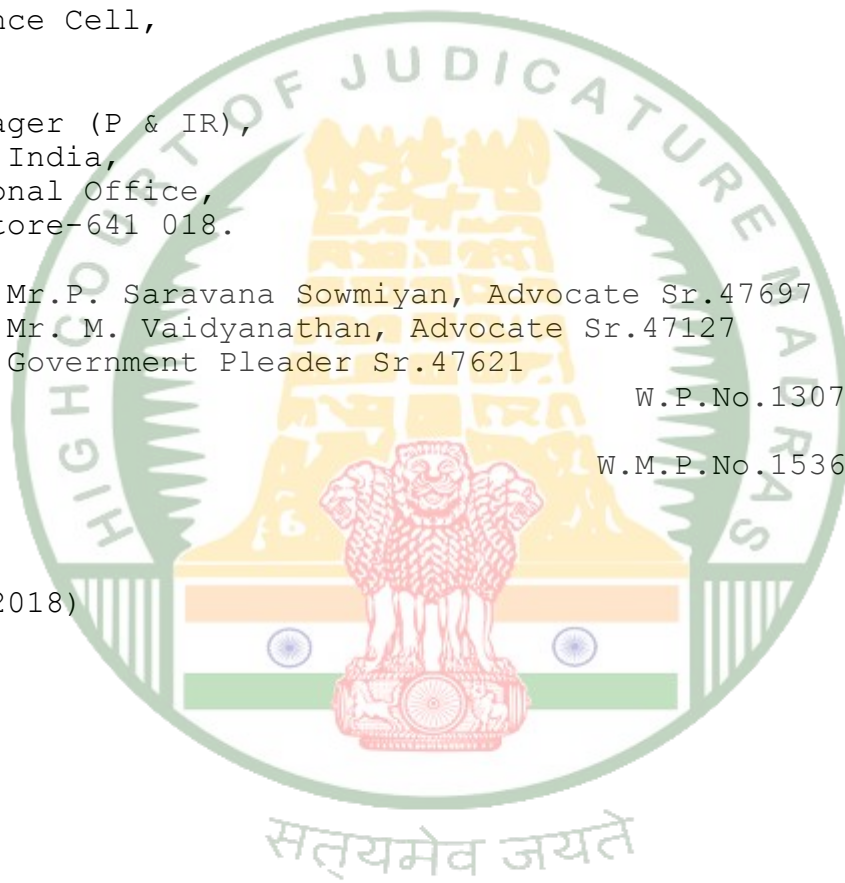
+ 1 cc to Government Pleader Sr.47621

W.P.No.13078 of 2018

and

W.M.P.No.15368 of 2018

(CS-DR)
EU(31/07/2018)



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