

In the High Court of Judicature at Madras

Dated: 20.07.2018

Coram:

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

W.P.No.15226 of 2018

A. Murugesan

.. Petitioner

Vs.

1. State of Tamil Nadu
Rep. by its Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat,
Chennai-600 009.
2. State Level Scrutiny Committee
rep. by its Chairman and
Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat,
Chennai-600 009.
3. The Director,
Tribal Welfare Department,
Chepauk,
Chennai-600 005.
4. The Deputy Superintendent of Police,
SC/ST Vigilance Cell, सत्यमेव जयते
Salem Region,
Collectorate, Salem.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for a writ of Mandamus, directing the Respondents 1 and 2 to proceed with the enquiry regarding genuineness of social status and verification of Malayali (ST) Community Certificate of the Petitioner issued by the Revenue Divisional Officer, Aathoor dated 20.02.1999 within the time framed manner.

For Petitioner : Ms.P.Rajathi
for Mr.C.Veeraraghavan

For Respondent : Mr.S.N.Parthasarathy
Nos.1 to 3 Government Advocate

O R D E R

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

The Petitioner has filed the instant Writ Petition praying for passing of an order by this Court in directing the Respondents 1 and 2 to proceed with the enquiry regarding the genuineness of social status and verification of his Malayali (ST) Community Certificate issued by the Revenue Divisional Officer, Aathoor dated 20.02.1999, within the time to be determined by this Court.

2.Heard Ms.P.Rajathi, Learned counsel for the Petitioner and Mr.S.N.Parthasarathy, Learned Government Advocate for the Respondents. No counter is filed on behalf of the Respondents 1 to 4.

3.According to the Petitioner, he belongs to Hindu Malayali Community which is classified as Scheduled Tribe Community. In all his school records, his community is entered as Malayali (ST). His educational qualification is M.Sc., M.Ed. He obtained his community certificate from the Revenue Divisional Officer, Aathoor, Salem on 20.02.1999 (Vide SR.No.62/99) stating that he belongs to Malayali (ST) Community.

4.The Petitioner on 19.11.2014 joined the service as Junior Scientific Officer of the Forensic Department. As a matter of fact, the First Respondent/ the Secretary to Government, State of Tamil Nadu, Adi Dravidar and Tribal Welfare Department, Secretariat, Chennai-9 had initiated proceedings in Letter No.9057/CV-4(2)/2015-2 dated 12.01.2017 for directing the Fourth Respondent/Deputy Superintendent of Police, SC/ST Vigilance Cell, Salem Region, Collectorate, Salem to verify the genuineness of the Petitioner's Community Certificate. Although the enquiry was conducted by the Fourth Respondent/Deputy Superintendent of Police, SC/ST Vigilance Cell, Salem Region, Collectorate, Salem, the First Respondent till date has not passed orders.

5.The grievance of the Petitioner is that he had completed two years of service and even then, his service is not regularised because of the fact that the State Level Scrutiny Committee report was not received by the Tamil Nadu Public

Service Commission. Hence, on 27.03.2018 he preferred an application before the First Respondent making a request for placing his Community Certificate for verification. He had also mentioned in his application/representation stating that for want of verification report, his probation was not declared as on date. Apart from that, the Director of Forensic Science Department, by means of an order dated 22.12.2016 in proceedings No.A1/43315/2016 passed an order stating that his regularisation order will be issued after receipt of genuineness of his Certificate for the Community Status claim from the Respondents 1 and 2. It appears that the First Respondent even after receipt of the Petitioner's application had not commenced any proceedings, as a result of which, the genuineness of his Certificate by means of a 'Field Enquiry' is not verified by the Revenue Divisional Officer.

6.At this juncture, the Learned counsel for the Petitioner contends that even after receipt of the representation of the Petitioner by the First Respondent, no enquiry till date has been conducted by the First Respondent and further, the verification of genuineness of the Petitioner's Community was not sent to the proper authority concerned, as a result of which, the probation of the Petitioner was not declared and his service is not regularised. Furthermore, the Petitioner's juniors were regularised and indeed, they were placed above in seniority. The Petitioner is left with no other alternative but to file the present Writ Petition praying for passing of an order by this Court in directing the Second Respondent/State Level Scrutiny Committee to complete the enquiry as regards the verification/genuineness of his Malayali (ST) Community Certificate, within a time frame to be determined by this Court.

7.It transpires that the Petitioner addressed a communication dated 27.03.2018 to the Second Respondent/Chairman and Secretary to Government,, State Level Scrutiny Committee, Adi Dravidar and Tribal Welfare Department, Secretariat, Chennai inter-alia making a request to pass an order in regard to the verification/genuineness of his Community Certificate and to do the needful. In the said communication, the Petitioner had referred to the Letter No.9057/CV-4(2)/2015-2 dated 12.01.2017 which was addressed by the Principal Secretary to Government to the Director, Tribal Welfare, Chennai-5 and the Deputy Superintendent of Police, SC/ST Vigilance Cell, Salem Region, Collectorate, Salem, Salem Region wherein at para 3, reference to the guidelines issued by the Hon'ble Supreme Court in the decision of Kumari Madhuri Patil Case [Judgment Today 1994 (5) SC 488] dated 02.09.1994 and a request was made to the Director of Tribal Welfare, Chennai-5, to issue show cause notice to the individual if he/she found a claim of social status to be "not genuine" or "doubtful" or "spurious" or

"falsely" or "wrongly" claimed. In fact, the said letter No.9057/CV-4(2)/2015-2 dated 12.01.2017 was required to be treated as "very urgent" and in spite of the same, there appears to be inaction by the concerned authorities. For no fault of the Petitioner, the Petitioner cannot be allowed to suffer.

8.Be that as it may, considering the fact that the Petitioner had addressed a representation dated 27.03.2018 and also another letter dated 14.05.2018 to the Second Respondent and till date, there is no progression in the subject matter in issue by the concerned authorities. This Court, in the interest of justice, fair play, equity, good conscience and even as a matter of prudence, directs the Respondents 1 and 2 to proceed with the enquiry in regard to the genuineness of social status and verification of Petitioner's Malayali (ST) Community Certificate issued by the Revenue Divisional Officer, Aathoor dated 20.02.1999 without any further loss of time or precipitating the matter any further and to pass necessary final orders in the subject matter in issue, within a period of five weeks from the date of receipt of a copy of this order. Liberty is granted to the Petitioner to raise all factual and legal pleas before the concerned authorities and the Petitioner in this regard is to avail the opportunity without fail. If the Petitioner is desirous of producing any supporting documents, then, he is entitled to file and produce the same before the concerned authority who shall take into account the same and proceed further in accordance with Law.

9.With the above observations and directions, the Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar (CO)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

DP

To

1.The Secretary to Government,,
State of Tamil Nadu,
Adi Dravidar and Tribal Welfare Department,
Secretariat,
Chennai-600 009.

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

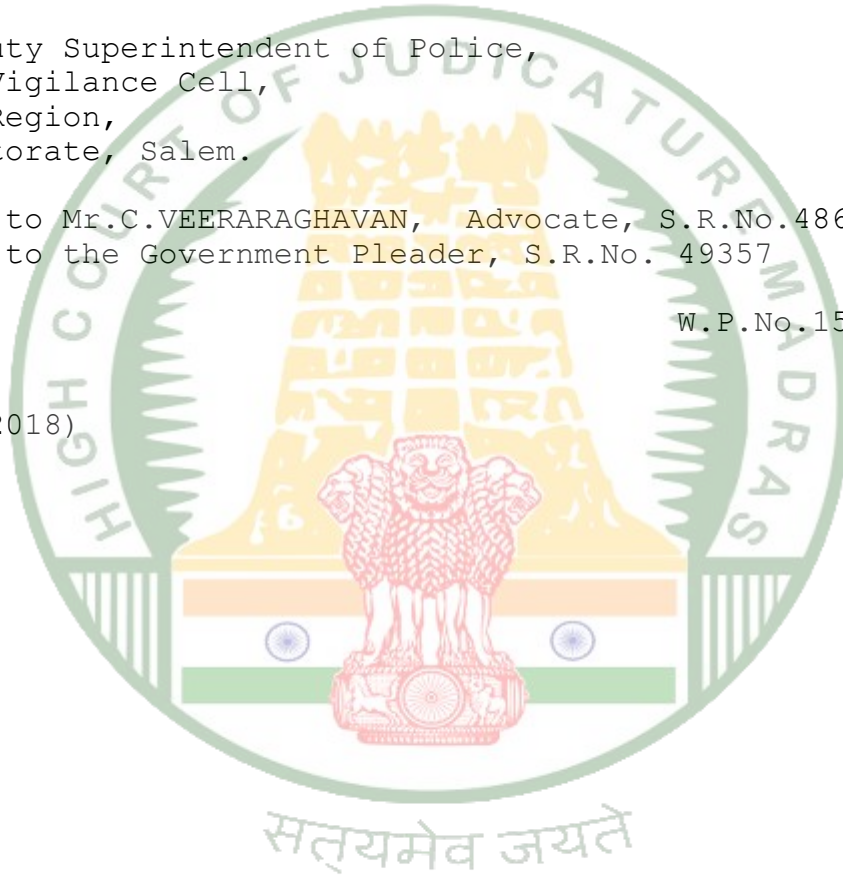
3.The Director,
Tribal Welfare Department,
Chepauk,
Chennai-600 005.

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

+1cc to Mr.C.VEEARAGHAVAN, Advocate, S.R.No.48689
+1cc to the Government Pleader, S.R.No. 49357

W.P.No.15226 of 2018

SSV(CO)
TR(09/08/2018)



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