

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2018

CORAM:

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

WRIT PETITION No.1906 of 2018

M.Santharam

... Petitioner

vs.

1. The State Level Scrutiny Committee,
rep. by its Chairman and Secretary
to the Government,
Adi Dravidar and Tribal Welfare Department,
Fort St. George,
Chennai 600 009.
2. The Director of Tribal Welfare,
Tribal Welfare Department,
Chepauk, Chennai 600 005.
3. The Deputy Superintendent of Police,
Social Justice & Human Rights
SC/ST Vigilance Cell,
Palayamkottai,
Tirunelveli - 627 002.
4. Life Insurance Corporation of India,
rep. by its Senior Divisional Manager,
Divisional Office, Sellur, Madurai - 2.

... Respondents

(R4 impleaded as per order of this Court dated 22.10.2018 in W.M.P.No.30833 of 2018 in W.P.No.1906 of 2018)

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, seeking to forbear the Respondents from conducting enquiry regarding the Community Certificate of the Petitioner from re-opening the enquiry/re-verification in the light of the positive finding rendered by this Court to the effect that he belongs to Scheduled Tribe Community in the earlier Writ Petition filed by him in W.P.No.6119 of 1997, dated 25.08.2000.

For Petitioner : Mr.Yogesh Kannadasan

For Respondents 1 to 3 : Mr.K.Rajendra Prasad,
Additional Government Pleader

For 4th Respondent : Mr.S.Silambanan,
Senior Counsel
for M/s.Kaavya Silambanan
Associates

O R D E R

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

Petitioner has come up with the present Writ Petition seeking to forbear the Respondents from conducting enquiry regarding his Community Certificate from re-opening the enquiry/re-verification in the light of the positive finding rendered by this Court in the earlier Writ Petition filed by him in W.P.No.6119 of 1997, by an order dated 25.08.2000, to the effect that he belongs to Scheduled Tribe Community.

2. According to the Petitioner, he belongs to Kattunayakan Community, which is listed as Scheduled Tribe under the Constitution (Scheduled Tribe) Order, 1950. He was appointed as Apprentice Development Officer in the 4th Respondent/Life Insurance Corporation, in the year 1986 under the strength of Hindu Kattunayakan Scheduled Tribe Certificate issued by the Revenue Divisional Officer, Cheranmahadevi, Tirunelveli District, after necessary enquiry and verification of records and presently, he is serving as Development Officer.

3. At the instance of the Petitioner's employer, based on third party complaints, the Petitioner's Community Certificate was referred for verification to the then District Collector, Tirunelveli. The Sub-Collector, Cheranmahadevi forwarded an adverse Report to the District Collector and based on the same, the District Collector cancelled the Petitioner's Community Certificate, vide order dated 16.06.1989. Consequently, the Petitioner was terminated from the services of the 4th Respondent/employer, by an order dated 26.12.1991.

4. Aggrieved by the said order, the Petitioner filed W.P.No.400 of 1992 and this Court, by an order dated 30.08.1996, quashed the order passed by the then District Collector and remitted the matter for fresh enquiry and also directed the Petitioner's employer to reinstate the Petitioner into service. Once again, the then District Collector passed an adverse order on 28.02.1997. Challenging the same, the Petitioner filed W.P.No.6119 of 2017 and this Court, by an order dated

25.08.2000, quashed the said order, by holding as under:

"10. Under these circumstances, and in the light of various infirmities in the impugned order, the same is liable to be quashed. I am also satisfied that the Petitioner has placed acceptable documentary evidence in support of his claim. Accordingly, the impugned order of the 1st Respondent dated 28.02.1997 is quashed. The 3rd Respondent is directed to reinstate the Petitioner with all service benefits. Writ Petition is allowed to the extent mentioned above."

5. It is further stated by the Petitioner that in view of the said findings, this Court had declared that the Petitioner belongs to Hindu Kattunayakan Community. While so, suddenly, the District Level Vigilance Committee, by an order dated 14.12.2005, summoned the Petitioner for an enquiry. Challenging the same, the Petitioner filed W.P.(MD) No.713 of 2006, wherein, by an order dated 04.10.2007, this Court disposed of the said Writ Petition with the following observation:

"Accordingly, these Writ Petitions are disposed of with the observation that these matters are now to be decided by the Three Member State Level Committee in accordance with law and the procedure contemplated in the Government Order. After taking the appropriate decision, it shall be communicated to the concerned parties, including the petitioners. No costs. Connected WMPs are closed."

6. The grievance of the Petitioner is that when he is left with only a few more years of service, he received a communication dated 11.09.2014 and 31.07.2015 from the 1st Respondent, directing him to appear for an enquiry in respect of verification of his Community Certificate. To the said communications, the Petitioner sent his replies dated 15.10.2014 and 06.08.2015, respectively, stating that further enquiry is not warranted, as this Court had rendered a positive finding in respect of his Community Certificate, in W.P.No.6119 of 1997 vide order dated 25.08.2000. Thereafter, the Petitioner did not receive any further communication from the 1st Respondent.

7. Again, to his shock and surprise, the Petitioner received an undated communication from the 3rd Respondent, which was handed over to him directly in person, summoning him for an enquiry on 22.01.2018. Aggrieved by the same, finding no other

alternative, the Petitioner is before this Court.

8. Learned counsel for the Petitioner contended that when there is a judicial order dated 25.08.2000 passed by this Court in W.P.No.6119 of 1997 in support of the Petitioner in respect of the Community Certificate issued to him, there cannot be any further enquiry. In support of his case, learned counsel relied on a decision of a Division Bench of this Court in W.A.No.174 of 2005, dated 15.09.2005, wherein, in similar circumstances, this Court has held as under:

"4. Mr.M.Sureshkumar, learned counsel appearing for the appellant, by drawing our attention to an earlier order dated 12.11.2002 passed by this Court in Writ Petition No.1496 of 1997 as well as an order of the Division Bench dated 05.10.2004 made in Writ Appeal No.3168 of 2004, would submit that in the light of the conclusion arrived therein, the District Level Vigilance Committee is not justified in issuing the Notice dated 18.08.2004 asking the Petitioner to appear for an enquiry. It is seen that when the community status of the Petitioner was questioned, the Petitioner approached this Court in Writ Petition No.1496/97 with a direction to the Respondents to forbear from proceeding with the verification of his community status. The said writ petition came to be disposed of on 12.11.2002. The learned Single Judge, after satisfying himself that the community certificate issued in favour of the writ petitioner was verified and after enquiry, the concerned Revenue Divisional Officer had submitted his report even on 21.01.1995 stating that the petitioner belongs to Kattunaicken community. The said communication was addressed to the District Collector, Tirunelveli. After finding the above factual information and relying on earlier decisions of this Court as well as the Supreme Court, the learned Judge has concluded that "the question raised now is covered by two decisions cited by the learned counsel for the petitioner. It is obvious that the petitioner is being subjected to repeated enquiries without valid justification. This conclusion is strengthened by the

fact that about half century back, the father of the petitioner was considered to be a member of Kattunaicken Community." By saying so, the learned Judge allowed the Writ Petition. The employer, namely, Life Insurance Corporation, not satisfied with the decision of the learned Judge, preferred Writ Appeal No.3168 of 2004 before a Division Bench. By order dated 05.10.2004, the Division Bench, after considering all the factual details as well as the legal position, confirmed the order of the learned Single Judge and dismissed the Writ Appeal. It is relevant to note that when the said Writ Appeal was pending before the Principal Bench, the District Level Committee has issued the impugned notice on 18.08.2004. Inasmuch as the matter in issue has been concluded by a judicial order of this Court, we are of the view that the District Level Committee is not justified in reopening/probing the matter further by issuing the impugned Notice. This aspect has not been considered by the learned Single Judge. We are satisfied that no further enquiry is warranted particularly in the light of the specific orders of this Court. Consequently, the impugned notice dated 18.08.2004 of the District Level Vigilance Committee, Madurai is set aside and the Writ Appeal is allowed. No costs."

9. Heard the learned counsel on either side and perused the material documents available on record.

10. In the case on hand, there is a judicial order dated 25.08.2000 passed by a Division Bench of this Court in W.P.No.6119 of 1997 in favour of the Petitioner. Moreover, the principle laid down by the Division Bench of this Court, by judgment dated 15.09.2005 in W.A.No.174 of 2005 squarely applies to the facts of this case that once the Community status of the Petitioner is declared by the Court by way of a judicial order, there cannot be any further enquiry.

11. In view of the above, this Writ Petition is allowed, forbearing the Respondents from conducting any enquiry regarding the Community Certificate of the Petitioner by re-opening the same, as there is a positive direction of this Court in his

favour. No costs. Consequently, connected W.M.P.No.2385 of 2018 is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Chairman and Secretary to the Government,
State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Fort St. George, Chennai 600 009.
2. The Director of Tribal Welfare,
Tribal Welfare Department,
Chepauk, Chennai 600 005.
3. The Deputy Superintendent of Police,
Social Justice & Human Rights
SC/ST Vigilance Cell,
Palayamkottai,
Tirunelveli - 627 002.
4. Life Insurance Corporation of India,
rep. by its Senior Divisional Manager,
Divisional Office,
Sellur, Madurai - 2.

+1cc to Mr.Yogesh Kannadasan, Advocate, S.R.No.73644

+1cc to the Government Pleader, S.R.No.73476

सत्यमेव जयते

W.P.No.1906 of 2018

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