

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 05.10.2018

Orders Pronounced on : 12.10.2018

CORAM:

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

W.P.No.31833 of 2017
and
W.M.P.No.34979 of 2017

V.Sukumar .. Petitioner

Vs.

1. The Deputy Secretary to Government,
Adi Dravidar and Tribal Welfare (CV-4(1)) Department,
Secretariat,
Chennai-600 009.
2. The District Collector,
Chennai District,
Collectorate, Chennai-600 001.
3. The Director,
Tribal Welfare,
Chennai-600 005.
4. The Deputy Superintendent of Police,
SC/ST Vigilance Cell,
Chennai Region,
Collectorate, Chennai-600 001.
5. The Personal Assistant (General)
to the District Collector and
Additional District Magistrate,
Chennai.
6. The Chief Manager,
Indian Overseas Bank,
Central Office,
P.B.No.3765, 763, Anna Salai,
Chennai-600 002.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for

the records relating to the communication in Letter No.8138/CV-4 (1)/2010-3, dated 01.11.2017 on the file of the respondent No.1 and quash the same.

For petitioner :Mr.Y.Prakash

For respondents:Mr.K.Rajendra Prasad, Addl.G.P. for RR-1 to 5
M/s.S.Rajeni Ramadass for R-6

ORDER

R.SUBBIAH, J

The present Writ Petition is filed for issuance of a Writ of Certiorari to call for the records relating to the communication in Letter No.8138/CV-4(1)/2010-3, dated 01.11.2017 on the file of the first respondent and quash the same.

2. It is the case of the petitioner that he belongs to Hindu Kattu Nayakan Community, which is recognised as a Scheduled Tribe Community by the Government of Tamil Nadu. The Tahsildar, Egmore-Nungambakkam Taluk, had issued a Community Certificate as early as on 21.09.1976 to the effect that the petitioner belongs to Hindu Kattu Nayakan Community. After graduation, the petitioner joined the services of the Indian Overseas Bank during the year 1985 and presently, he is working as Manager, TVS Colony Branch, Chennai. After his appointment with the Indian Overseas Bank, during 1992, the Deputy Chief Officer, SC/ST Cell, attached to the Bank, forwarded the petitioner's Community Certificate issued by the Tahsildar to the District Vigilance Committee, headed by the District Collector, Chennai, the second respondent herein, for the purpose of verification and confirmation of his community status as Hindu Kattu Nayakan Community. After prolonged enquiry of about 11 years, the District Vigilance Committee, under proceedings, dated 16.05.2003, passed an order confirming the community status and found that the Community Certificate issued to the petitioner by the Tahsildar is genuine.

3. While so, in the year 2003, as the petitioner required a permanent Community Certificate issued in a new format as prescribed by the Government, for himself and his children S.Deepak and S.Govardhan, for the purpose of petitioner's employment and education, respectively, he applied for issuance of Community Certificate to the second respondent/District Collector, by application dated 26.05.2003. The second respondent directed the petitioner to appear before the Tahsildar, Egmore-Nungambakkam Taluk for enquiry, which was conducted on various dates and during the course of enquiry, the petitioner submitted all relevant records. Based on the records submitted by the petitioner, the Tahsildar, Egmore-Nungambakkam Taluk also recommended his case to the second respondent through

the report, dated 18.06.2004 for issuance of permanent Community Certificate to himself and his children. Thereafter, the petitioner was called for by the fifth respondent to appear on 20.07.2004. The petitioner attended the enquiry and produced all the records before the fifth respondent. He has also filed an affidavit, dated 11.08.2004 as required by the fifth respondent. Even after lapse of one year after the enquiry, the permanent Community Certificate was not issued. Hence, the petitioner approached the second respondent-District Collector. By letter dated 08.10.2004, the second respondent directed the petitioner to approach the fifth respondent again for fresh enquiry to be held on 11.10.2004. As no such enquiry is required, the petitioner has filed a Writ Petition in W.P.No.29634 of 2004 seeking to quash the communication dated 08.10.2004 issued by the second respondent, subjecting the petitioner again for enquiry, stating that the District Level Committee has already confirmed the community status of the petitioner, and therefore, there is no need to have a fresh enquiry. This Court, by order dated 29.03.2007, allowed the said Writ Petition and quashed the said communication dated 08.10.2004 issued by the second respondent-District Collector and directed the second respondent therein to issue the permanent Community Certificate to the petitioner and his children.

4. It is further stated by the petitioner that since the Community Certificate was not issued as directed by this Court in the said Writ Petition, the petitioner filed Contempt Petition No.555 of 2007. Further, as against the said order passed in the said Writ Petition, the respondents therein, including the second and fifth respondents herein, filed a Writ Appeal in W.A.No.929 of 2007, which was dismissed by a Division Bench of this Court on 13.07.2007, confirming the said order dated 29.03.2007 passed in the said Writ Petition. Only thereafter, the fifth respondent issued the permanent Community Certificate dated 26.07.2007 to the petitioner and his children. The Contempt proceedings were closed thereafter. Thus, the community status of the petitioner has reached finality. While so, after more than ten years, the petitioner received an E-mail, dated 11.09.2017 from the sixth respondent-Chief Manager, Indian Overseas Bank, Regional Office, Chennai, seeking documents relating to his community, including the Community Certificate, under the guise of verification of genuineness of the Community Certificate. The sixth respondent is not competent to verify the community status, as already the same has been confirmed by the authorities concerned and also the orders passed by this Court as stated supra. However, the petitioner furnished the Community Certificate as required through proper channel. It is further stated by the petitioner that even during 2003, the SC/ST Cell of the Bank sought for his Community Certificate for verification, upon which, the petitioner

produced the same and the Bank had also accepted the same.

5. While so, the petitioner received the impugned communication dated 01.11.2017, only on 04.12.2017 of the first respondent, addressed to the respondents 3 and 4, requesting them to make a Vigilance Cell enquiry on the Hindu Kattu Nayakan Scheduled Tribe Community Certificate issued to the petitioner and they were further directed to conduct open enquiry in the presence of the petitioner and send a detailed report to the third respondent. Further, the third respondent has also been requested to issue a show cause notice to the writ petitioner, if he/she found the claim for social status to be "not genuine" or "doubtful" or spurious or falsely or wrongly claimed. Aggrieved by the said communication, dated 01.11.2017, the petitioner has filed this Writ Petition for the relief stated supra.

6. When the Writ Petition is taken up for consideration, learned counsel for the petitioner submitted that as early as on 21.09.1976, the petitioner was issued with Community Certificate by the Tahsildar, Egmore-Nungambakkam Taluk, to the effect that the petitioner belongs to Kattu Nayakan Community, which is a Scheduled Tribe. Subsequently, the petitioner joined the services of the Indian Overseas Bank during the year 1985. During the year 1992, the Deputy Chief Officer, SC/ST Cell attached to the Bank, forwarded the Community Certificate issued by the Tahsildar to the District Vigilance Committee, headed by the second respondent/District Collector, for the purpose of verification and confirmation of the petitioner's community status as Hindu Kattu Nayakan Community. The Community Certificate was verified by the District Vigilance Committee and by proceedings dated 16.05.2003, it was confirmed that the Community Certificate issued by the Tahsildar is genuine. Since the petitioner required permanent Community Certificate issued in a new format prescribed by the Government, by application dated 26.05.2003, he applied for issuance of Community Certificate for himself and his children. The petitioner was directed to appear before the Tahsildar, Egmore-Nungambakkam Taluk for enquiry and the petitioner also appeared for enquiry. The Tahsildar has also recommended his case to the second respondent-District Collector, through report dated 18.06.2004 for issuance of permanent Community Certificate to the petitioner and his children. In spite of the favourable report of the Tahsildar, the Community Certificate was not issued. On the other hand, the petitioner was called for by the fifth respondent to appear for enquiry. Further, by letter dated 08.10.2004, the second respondent-District Collector directed the petitioner to approach the fifth respondent again for fresh enquiry.

7. Learned counsel for the petitioner further submitted that since the enquiry is totally unwarranted, in view of the fact the Community Certificate already issued, was confirmed by the District Vigilance Committee, the petitioner filed Writ Petition in W.P.No.29634 of 2004 seeking to quash the said communication, dated 08.10.2004 issued by the second respondent, subjecting the petitioner again for enquiry. By order dated 29.03.2007, a learned Single Judge allowed the said Writ Petition and quashed the said communication dated 08.10.2004 on the reasoning that the petitioner's Community Certificate was not cancelled and it was confirmed by the District Vigilance Committee and the second respondent therein was directed to issue permanent Community Certificate to the petitioner and his children. Instead of issuing permanent Community Certificate to the petitioner and his children, enquiry was ordered which is not sustainable. Hence, learned counsel for the petitioner submitted that the issue with regard to the Community Certificate status of the petitioner, has already reached finality, but inspite of the same, again and again the petitioner was asked to attend the enquiry. He further submitted that the respondents could not exceed in their jurisdiction in ordering a fresh enquiry on the community status of the petitioner. On the other hand, the first respondent could have very well called for the records from the fifth respondent to test the veracity of the Community Certificate already issued to the petitioner. Thus, learned counsel for the petitioner prayed to allow the Writ Petition.

8. Countering the above submissions, the learned counsel for the sixth respondent/Indian Overseas Bank (IOB), by filing counter affidavit, submitted that the petitioner joined the Bank as Probationary Officer on 10.06.1985 under ST category by submitting a Community Certificate obtained from XIII Metropolitan Magistrate, Egmore, dated 25.01.1985. On routine verification of the Community Certificates, the Bank had taken up the same with the District Vigilance Committee for verification of the caste status of the petitioner, as the Certificate submitted by him was not obtained from the competent authority. The District Vigilance Committee, vide proceedings, dated 16.05.2003, had confirmed that the Community Certificate issued by the Tahsildar, Egmore-Nungambakkam Taluk, dated 21.09.1976 is genuine. Further, after receipt of the above verification certificate from the District Vigilance Committee, the sixth respondent received a letter dated 20.10.2004 from the District Collector, Chennai, through Tahsildar, Egmore-Nungambakkam, addressed to the petitioner, with a copy to the Bank, in which the District Collector rejected the petitioner's request to issue ST Community Certificate to the petitioner and also his son, as they found that the petitioner belongs to Naidu Community and failed to prove his claim that he belongs to Kattu Nayakan Community.

9. Learned counsel for the sixth respondent-IOB further submitted that since the Bank had received two contradictory certificates/letters from the same office, vide DVC proceedings dated 16.05.2003 and the said letter, dated 20.10.2004, the sixth respondent-IOB referred the matter to the Tamil Nadu State Level Scrutiny Committee, Adi Dravidar and Tribal Welfare, for review and disposal. In the meantime, the petitioner had filed W.P.No.29634 of 2004, challenging the communication dated 08.10.2004 on the file of the District Collector and Additional District Magistrate, Chennai and for a direction to issue permanent Community Certificate. The said Writ Petition was allowed by this Court on 29.03.2007 and accordingly, the District Collector issued Community Certificate, dated 26.07.2007. After issuing the above Community Certificate, the District Collector sent a letter dated 11.03.2008 to the Chairman of the State Level Scrutiny Committee, to verify the genuineness of the Community Certificate with a copy to the sixth respondent-Bank. Hence, the sixth respondent-Bank sent a letter dated 10.04.2008, in reference to the District Collector's letter dated 11.03.2008, to the Secretary to Government of Tamil Nadu, Chairman of State Level Scrutiny Committee, Adi Dravidar and Tribal Welfare Department, Chennai, to conduct enquiry and pass an order. Therefore, learned counsel for the sixth respondent submitted that the petitioner's caste/community in Scheduled Tribe, is yet to be verified by the appropriate Committee. However, learned counsel for the sixth respondent-Bank submitted that the Community Certificate of the petitioner was verified and confirmed only by the two-member District Level Committee at that time, but the Courts have delivered judgments by doubting the validity of the two-member District Level Committee, and therefore, on that ground, the petitioner cannot sustain his case based on the report of the District Vigilance Committee, which consisted of only two members at that point of time.

10. This Court also heard the submissions made by the learned Additional Government Pleader appearing for the respondents 1 to 5, who have also filed counter affidavit on the above aspects.

11. By way of reply, learned counsel for the petitioner submitted that the District Vigilance Committee has passed order on 16.05.2003 confirming the Community Certificate of the petitioner and at that point of time, the two-member Committee is a valid Committee, and therefore, the validity of the District Vigilance Committee cannot be doubted now, and hence, he sought for quashing the impugned order and prayed to allow the Writ Petition.

12. Keeping in mind the above submissions made by the learned counsel appearing for the parties, we have carefully

gone through the records.

13. It is reiterated by the learned counsel for the petitioner that already, by order dated 16.05.2003, the District Vigilance Committee has confirmed the petitioner's Community Certificate. That apart, this Court, by order dated 29.03.2007, has also allowed W.P.No.29634 of 2004 filed by the petitioner and the second respondent therein was directed to issue the permanent Community Certificate to the petitioner and his children. The said order of this Court dated 29.03.2007 was also confirmed by a Division Bench of this Court by judgment dated 13.07.2007 in Writ Appeal No.929 of 2007. Under such circumstances, learned counsel for the petitioner submitted that there cannot be any repeated enquiries by the authorities. But it is the submission of the learned counsel for the sixth respondent-Bank that the District Collector has rejected the request of the petitioner to issue ST Community Certificate, as it was found that the petitioner belongs to Naidu Community and he failed to prove his claim that he belongs to Kattu Nayakan Community, and hence, the sixth respondent-Bank referred the matter to the Tamil Nadu State Level Scrutiny Committee, and therefore, the impugned order dated 01.11.2017 is passed by the first respondent.

14. Be that as it may. We are of the opinion that the impugned order is only a communication and the sixth respondent-Bank has sent communication to the State Level Scrutiny Committee only pursuant to the letter of the District Collector doubting the Community Certificate of the petitioner. At the same time, we find that the District Vigilance Committee has confirmed the Community Certificate of the petitioner, and the District Vigilance Committee is only a two-member Committee at the time of passing the order, which was a valid Committee at that point of time. In such circumstances, this Court is constrained to pass the following order.

15. Before proceeding with the enquiry with regard to the genuineness of the Community Certificate already issued by the Tahsildar to the petitioner at that point of time, the State Level Scrutiny Committee, before which the matter is now pending, is directed to call for the records from the Office of the District Collector concerned pertaining to the order passed by the then District Level Vigilance Committee, dated 16.05.2003 and examine the materials available on record and the State Level Scrutiny Committee shall also ascertain as to whether the said order dated 16.05.2003 passed by the District Level Vigilance Committee, is in consonance with the parameters laid down by the Hon'ble Supreme Court in the decision reported in Kumari Madhuri Patil Vs. Additional Commissioner, reported in AIR 1995 SC 94 = 1994 (6) SCC 241, which has been subsequently clarified by the Supreme Court in the decision reported in 1997 (5) SCC 437 (Kumari Madhuri Patil Vs. Addl. Commnr., Tribal

Development). Thereafter, if the State Level Scrutiny Committee is satisfied and finds that the said order dated 16.05.2003 passed by the District Level Committee is in accordance with the parameters laid by the Hon'ble Supreme Court in the above decisions, then the State Level Scrutiny Committee shall drop the proceedings, and if not, the State Level Scrutiny Committee shall proceed with the enquiry and pass appropriate orders with regard to the genuineness of the Community Certificate already issued by the Tahsildar to the petitioner.

16. With the above observations and directions, this Writ Petition is disposed of. No costs. Consequently, W.M.P. is closed.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Secretary to Government,
Adi Dravidar and Tribal Welfare (CV-4(1)) Department,
Secretariat, Chennai-600 009.
2. The District Collector, Chennai District,
Collectorate, Chennai-600 001.
3. The Director, Tribal Welfare, Chennai-600 005.
4. The Deputy Superintendent of Police,
SC/ST Vigilance Cell, Chennai Region,
Collectorate, Chennai-600 001.
5. The Personal Assistant (General)
to the District Collector and
Additional District Magistrate, Chennai.
6. The Chairman,
The Secretary to Government,
State level Scrutiny Committee,
Adi Dravidar & Tribal welfare,
Secretariat, Chennai 9.

+1cc to Mr.Y.Prakash, Advocate SR.NO.71390

+1cc to M/s.S.Rajeni Ramadoss Advocate SR.NO.71401

+1cc to Government Pleader SR.NO.71448

GP(CO)

sm:13.11.2018

W.P.No.31833 of 2017