



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 01.06.2018
DELIVERED ON : 27.06.2018
CORAM

WEB COPY

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN
and
THE HON'BLE MRS. JUSTICE T.KRISHNAVALLI

W.P. (MD) No.11456 of 2018
and
WMP (MD) .No.10445 of 2018

T.Chandrasekaran

.. Petitioner

Vs.

1. The Tamilnadu State Level Scrutiny Committee,
rep. by its Chairman and Secretary to Government,
Adi Dravdar and Tribal Welfare Department,
Fort St. George, Chennai - 600 009.
2. The Director of Tribal Welfare Department,
Chepauk, Chennai - 600 005.
3. The Deputy Superintendent of Police,
SC/ST Vigilance Cell,
Trichy Region (w.e)
District Adi Dravidar and Tribal Welfare Office,
Collectorate, Trichy.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent in Letter No.4222/CV.III/2017-1, dated 04.04.2017 and to quash the same and consequently to declare the community status of the petitioner as Konda Reddi scheduled Tribe community based on the community certificate of the petitioner dated 11.5.1977 issued by Tahsildar, Thuraiyur Taluk, Trichy District and consequently forbear the respondents from re-opening the enquiry/re-verification pertaining to the permanent community certificate of the petitioner in the light of the Letter No.35404/ADW II/91, dated 16.9.1991 issued by the ADTW Department and judgment reported in 1997(7) SCC 505, R.Kandasamy v. Chief Engineer, Port Trust.

For Petitioner : Mr.N.Naganathan

For Respondents : Mr.V.R.Shanmuganathan
Spl. Government Pleader

**ORDER**

[Judgment of the Court was delivered by M.V.MURALIDARAN, J.]

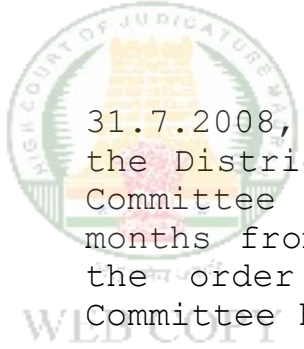
This writ petition has been filed by the petitioner seeking issuance of a writ of certiorarified mandamus to call for the records of the first respondent in Letter No.4222/CV.III/2017-1, dated 04.04.2017 and to quash the same and consequently to declare the community status of the petitioner as "Konda Reddi" Scheduled Tribe community based on the community certificate of the petitioner dated 11.5.1977 issued by Tahsildar, Thuraiyur Taluk, Trichy District and consequently forbear the respondents from re-opening the enquiry/re-verification pertaining to the permanent community certificate of the petitioner in the light of the Letter No.35404/ADW II/91, dated 16.9.1991 issued by the ADTW Department and judgment in R.Kandasamy v. Chief Engineer, Port Trust, (1997) 7 SCC 505.

2. In the affidavit filed in support of the writ petition, it is averred that the petitioner belongs to "Konda Reddi" community, which is classified as Scheduled Tribe community and to that effect, he obtained a community certificate from the Tahsildar, Thuraiyur Taluk, Trichy District on 11.5.1977. According to the petitioner, his relatives were issued with "Konda Reddi" community certificate. The said community certificate remains unchallenged till date and is in vogue.

3. It is stated that the petitioner was appointed as Clerk cum Shroff in the Indian Bank on 27.11.1978 under the Scheduled Tribe quota and had retired from service on attaining the age of superannuation on 30.4.2015. At the time of retirement, he was working as Chief Manager in Zonal Office, Trichy.

4. It is averred that on 25.4.2015, the petitioner was served with a charge memo and the same was concluded on 30.4.2015, in which minor punishment was imposed on him i.e., reduction of one stage in time-scale of pay till date of his retirement. After imposing punishment, on 30.4.2015, the petitioner was informed that he was ceased to be in service due to non-receipt of the final report from the first respondent relating to verification of his community certificate and further it is stated in the said order that disciplinary proceedings are pending. Though disciplinary proceedings came to an end on 30.4.2015, the employer denied the terminal benefits due to the petitioner, which is contrary to the regulations of Indian Bank Service Regulations and/or Indian Bank Employees Pension Rules.

5. In the meanwhile, on 06.5.1994, the District Collector, without conducting enquiry, had cancelled the community certificate issued to the petitioner. Challenging the same, the petitioner filed W.P.No.9826 of 1999. By an order dated



31.7.2008, a Division Bench of this Court set aside the order of the District Collector and remitted the matter to the State Level Committee for fresh consideration and to pass orders within three months from the date of receipt of a copy of the order. Despite the order of this Court passed in W.P.No.9826 of 1999, the Committee had failed to conduct an enquiry.

6. It is also averred that challenging the denial of pensionary benefits, the petitioner had filed W.P.No.819 of 2016. By an order dated 19.4.2017, another Division Bench of this Court directed the first respondent to decide the matter on merits and as per law as expeditiously as possible and in any case, on or before 03.10.2017. On 04.4.2017, the first respondent issued the impugned letter requesting the respondents 2 and 3 to conduct the enquiry about the petitioner's social status. According to the petitioner, pursuant to the orders of this Court, he had submitted all documents on 8.5.2017 by way of representation. Despite time granted to the State Level Scrutiny Committee to enquire into the matter, they slept over for more than eight years.

7. The case of the petitioner is that the employer of the petitioner had failed to produce documents to show that the petitioner had obtained the community certificate dated 11.5.1977 by fraud and false representation. When the community certificate was issued by the competent authority, it cannot now be said that the said community certificate was not valid.

8. By relying upon the decision of the Hon'ble Supreme Court in *Kumari Madhuri Patil and another v. Additional Commissioner of Tribal Development and others*, reported in (1994) 6 SCC 241, the respondents are testing the veracity of the certificate obtained prior to 11.11.1989. Hence, the petitioner has filed the writ petition seeking the relief aforesaid.

9. I heard Mr.N.Naganathan, learned counsel appearing for the petitioner and Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents and also perused the materials available on record.

10. The learned counsel appearing for the petitioner submitted that the petitioner is a retired employee of the Indian Bank and he was issued with "Konda Reddi" community certificate on 11.05.1977. He submitted that on 06.5.1994, the District Collector, without conducting any enquiry, cancelled the community certificate dated 11.5.1977 issued to the petitioner. Challenging the same, the petitioner filed W.P.No.9826 of 1999. By an order dated 31.7.2008, the Division Bench of this Court set aside the order of the District Collector and remitted the matter to the State Level Scrutiny Committee with direction to verify and conduct an enquiry within a period of three months from the date of receipt of copy of the order. Despite direction, the



respondent authorities have not verified the social status of the petitioner.

11. The learned counsel for the petitioner submitted that qua denial of pensionary benefits, the petitioner had filed W.P.No.819 of 2016. By an order dated 19.4.2017, another Division Bench this Court directed the first respondent to decide the matter on merits and as per law within 03.10.2017 and ordered disbursement of retirement benefits subject to the result of the writ petition. Pursuant to the direction issued by this Court, the petitioner submitted all relevant documents before the first respondent on 8.5.2017. Despite receipt of the same, the first respondent has not passed any order.

12. The learned counsel further submitted that on 4.4.2017, the first respondent issued the impugned letter to the respondents 2 and 3 to conduct the enquiry regarding the social status of the petitioner. He submitted that in the impugned letter the first respondent failed to state the reason for verification of the community certificate. The direction issued by this Court earlier was not adhered to and the first respondent having slept over the matter for eight years, has no right to issue the impugned letter calling upon the third respondent to enquire into the matter.

13. The learned counsel argued that the respondents failed to consider the judgment of the Hon'ble Supreme Court in *Kandasamy v. Chief Engineer, Madras Port Trust, (1997) 7 SCC 505*, wherein the Hon'ble Supreme Court held that community certificates issued prior to 11.11.1989 are valid. He submitted that the letter of the first respondent impugned in this writ petition is flagrant violation of the decision of the Hon'ble Supreme Court in *Kandasamy, supra*. He argued that if the respondents are allowed to once again re-verify the status, it would tantamount to re-writing the findings and dictum of law settled by the judicial forum, which would not only result in multiplicity but also unsettle the settled issue.

14. The learned Special Government Pleader appearing for the respondents submitted verification of the social status of the petitioner was as per the decision in *Kumari Madhuri Patil and another v. Additional Commissioner of Tribal Development and others, reported in 1994(6) SCC 241*, wherein the Hon'ble Supreme Court issued directions to streamline the procedure for issuance of social status certificate. He argued that the State Level Scrutiny Committee is empowered to verify the genuineness of the community certificate issued to the petitioner. The learned Special Government Pleader submitted that the letter impugned is issued only as per the order of this Court and the same need not

<https://hccservices.mca.gov.in/esh>

15. It appears that the petitioner was appointed as Clerk



in the Indian Bank on 27.11.1978 under Schedule Tribes quota and he was retired from service on 30.4.2015 holding the post of Chief Manager in Zonal Office, Trichy. There is no dispute that the appointment of the petitioner was under Scheduled Tribe quota.

16. It appears that when the petitioner was working, on 6.5.1994, the District Collector had cancelled the community certificate issued to the petitioner. Challenging the same, the petitioner filed W.P.No.9826 of 1999. By an order dated 31.7.2008, this Court set aside the order of the District Collector and remanded the matter to the State Level Scrutiny Committee for fresh consideration and pass order within three months from the date of receipt of the copy of this order.

17. It also appears that when the petitioner was denied with pensionary benefits by the employer, he filed W.P.No.819 of 2016. By an order dated 19.4.2017, the Division Bench of this Court directed the first respondent to decide the matter on merits as expeditiously as possible and in any case, on or before 03.10.2017. The operative portion of the order dated 19.4.2017, reads as follows:

"8. The State Level Scrutiny Committee is directed to decide the matter on merits and as per law as expeditiously as possible and in any case, on or before 03 October 2017. The petitioner is directed to co-operate with the State Level Scrutiny Committee for an early disposal of the matter. We have given sufficient indulgence to petitioner by accommodating him, in view of the difficulty expressed by him that he will be back out of India only till 14 June 2017. In case it is made out that the petitioner is dragging the matter under one pretext or the other, it is open to the State Level Scrutiny Committee to decide the matter on the basis of the available materials. The question of disbursement of retirement benefits to the petitioner should await the result of the scrutiny proceedings."

18. According to the petitioner, pursuant to the direction of this Court in W.P.No.819 of 2016, the petitioner submitted a representation to the first respondent on 8.5.2017 enclosing all relevant documents to enquire and verify his social status. However, no action was taken by the first respondent despite the request made by him.

19. The learned counsel for the petitioner submitted that pending W.P.No.819 of 2016, the first respondent issued the impugned letter to the third respondent to verify the social status of the petitioner by making open inquiry. He argued that though in the final order dated 19.4.2017, the Division Bench directed the first respondent to decide the matter on or before



03.10.2017, the first respondent failed to complete the verification process till date.

20. On a perusal of the typed set of papers, I find that the petitioner was issued with community certificate dated 11.05.1977 by the Tahsildar, Thuraiyur stating that he belongs to "Konda Reddi" community, which has been recognised as a Scheduled Tribe and till date the said certificate was not cancelled by any authority.

21. It is to be noted that in the Letter No.35404/ADW II/91-1, dated 16.9.1991 of the Secretary to Government, Adi Dravidar and Tribal Welfare (AD II) Department addressed to all Collectors, it has been stated as under:

"I am directed to state that the Tamil Nadu Kattunayakkan (Scheduled Tribe) Samooga Seerthirutha Sangam Nagapattinam has requested the Government among other things to validate the permanent community certificate issued to Scheduled Tribes prior to the issue of G.O.(Ms) 2137/AC & TW dated 11.11.89 by Tahsildar.

2. The Government have examined the request in detail in consultation with Special Commissioner and Commissioner of Revenue Administration and confirmed that the community certificates issued to the Scheduled Tribe Communities by Tahsildar prior to 11.11.89 will be valid. I am to enclose a copy of G.O. (Ms) No.2137 Adi Dravidar and Tribal Welfare dated 11.11.89 for guidance.

3. I am to request you to validate the community certificates issued to Scheduled Tribe Communities by Tahsildar prior to 11.11.89. In doubtful cases, I am to request that they may be verified as per Government orders in force."

(emphasis supplied)

22. Thus, as per the letter of the Secretary to Government, Adi Dravidar and Tribal Welfare (AD II) Department, community certificates issued to the Scheduled Tribe Communities by the Tahsildar prior to 11.11.1989 are valid.

23. It is beyond any cavil that community certificate was issued to the petitioner by the Tahsildar, Thuraiyur on 11.05.1977 to the effect that he belongs to "Konda Reddi" community and the same has not been cancelled by any authority till date.

24. Qua the competency of the Tahsildar to issue the said community certificates, it is apposite to refer to the decision of the Hon'ble Supreme Court in *R.Kandasamy v. The Chief Engineer, Madras Port Trust*, (1997) 7 SCC 505, wherein it is emphatically held as under:



"6. In our opinion the community certificate issued to a Scheduled Tribe candidate by the Tahsildar prior to 11.11.1989 is a good and valid community certificate for all purpose so long such as a certificate is not cancelled. The authorities cannot decline to take that into consideration."

25. In the light of the decision in *R.Kandasamy*, supra, the authorities have to take into consideration the community certificate issued prior to 11.11.1989 as a good and valid community certificate for all purposes, so long such certificate was not cancelled.

26. By the order dated 31.7.2008 passed in W.P.No.9826 of 1999, the Division Bench of this Court while remitting the matter to the State Level Scrutiny Committee, directed them to pass orders afresh within a period of three months from the date of receipt of the copy of the order. It is also to be noted that by the order dated 19.4.2017, the another Division Bench of this Court directed the first respondent to decide the matter as expeditiously as possible and in any case, on or before 03.10.2017. However, till date, the first respondent had not even taken steps to conduct a detailed enquiry. It is a sorry state of affairs. The first respondent, despite direction of this Court, had not chosen to expedite the process and because of the delay in compliance with the said order, the petitioner, who had since retired from service, is deprived of his statutory right of getting pension and other terminal benefits for the service rendered by him for years. The whys and wherefores for such delay are not explained by the respondent authorities.

27. Since the Indian Bank has not been made as respondent and no relief regarding disbursement of retiral benefits was sought in this writ petition, there is no necessity to deal with the said aspect. However, be it noted that a Co-ordinate Bench of this Court in W.P.No.5918 of 2016, dated 18.2.2016 (*Union of India and another v. The Registrar, CAT, Madras Bench, Chennai-104*), held as under:

" mere reference to the pendency of the verification of the community certificate of the second respondent before the State Level Scrutiny Committee is not a ground for the petitioners to deny the terminal benefits to the second respondent. As observed by the Division bench of this Court in the above referred to decision, in the event of the Scrutiny Committee cancelling the Community Certificate, the Railways can pass orders forfeiting the pension. Hence, the mere pendency of the proceedings before the Scrutiny Committee cannot impede the settlement of terminal benefits to the second respondent."



28. By virtue of the law enunciated in the decision, referred supra, it is clear that pendency of verification of the community status is no ground for denial of terminal benefits to the employee.

29. For the foregoing reasons, the following order is passed:

- (a) the writ petition is allowed and the letter impugned in this writ petition is set aside;
- (b) on production of a copy of this order, the employer of the petitioner shall forthwith release all his pensionary and terminal benefits within a period of one month thereafter, without insisting on any proceedings from the first respondent;
- (c) No costs. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1. The Chairman and Secretary to Government,
Tamilnadu State Level Scrutiny Committee,
Adi Dravdar and Tribal Welfare Department,
Fort St. George,
Chennai - 600 009.
2. The Director of Tribal Welfare Department,
Chepauk, Chennai - 600 005.
3. The Deputy Superintendent of Police,
SC/ST Vigilance Cell,
Trichy Region (w.e)
District Adi Dravidar and Tribal Welfare Office,
Collectorate, Trichy.

+ 1 cc TO Mr.N.Naganathan , Advocate in SR No. 70094

VSV

AE/SKN RSK/SAR2/06.07.2018/8P/5C

order made in
W.P. (MD) No.11456 of 2018
27.06.2018