



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 01.06.2018

DELIVERED ON : 27.06.2018

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CORAM

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

W.P. (MD) No.11470 of 2018
and
WMP (MD) .No.10453 of 2018

S.Renuka

.. 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 Assistant Commissioner of Police,
Social Justice and Human Rights Unit
District SC/ST Vigilance Cell,
Coimbatore City,
O/o.Coimbatore Commissioner of Police
Coimbatore - 641 018.

.. 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.2871/CV-4(2)/2008-7, dated 8.9.2016 and the Vigilance Cell Enquiry Summon Letter Na.Ka.No.02/ACP-SJHR/SC/ST-Vigilance Cell/Cbe City/2018, dated 21.4.2018, Letter Na.Ka.No.02/ACP-SJHR/SC/ST-Vigilance Cell/Cbe City/2018, dated 2.5.2018 and Letter Na.Ka.No.02/ACP-SJHR/SC/ST-Vigilance Cell/Cbe City/2018, dated 15.5.2018 of the third respondent to quash the same and consequently to declare the community status of the petitioner as Konda Reddy Schedule Tribe community based on the community certificate of the petitioner dated 7.8.1981 issued by the Special Tahsildar (Stamps), Office of the Revenue Divisional Officer, Coimbatore 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 ADTW Department and judgment reported in 1997 (7) Supreme Court Cases 505 (R.Kandasamy v. Chief Engineer, Port Trust).

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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.2871/CV-4(2)/2008-7, dated 8.9.2016 and the Vigilance Cell Enquiry Summon Letter Na.Ka.No.02/ACP-SJHR/SC/ST-Vigilance Cell/Cbe City/2018, dated 21.4.2018, Letter Na.Ka.No.02/ACP-SJHR/SC/ST-Vigilance Cell/Cbe City/2018, dated 2.5.2018 and Letter Na.Ka.No.02/ACP-SJHR/SC/ST-Vigilance Cell/Cbe City/2018, dated 15.5.2018 of the third respondent to quash the same and consequently to declare the community status of the petitioner as "Konda Reddy" Schedule Tribe community based on the community certificate of the petitioner dated 7.8.1981 issued by the Special Tahsildar (Stamps), Office of the Revenue Divisional Officer, Coimbatore 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 ADTW Department and judgment reported in R.Kandasamy v. Chief Engineer, Port Trust, (1997) 7 Supreme Court Cases 505.

2. In the affidavit filed in support of the writ petition, it is averred that the petitioner belongs to "Konda Reddy" community, which is classified as Scheduled Tribe community and to that effect, he obtained a community certificate from the Special Tahsildar (Stamps), Coimbatore District on 7.8.1981. According to the petitioner, his relatives were also issued with "Konda Reddy" community certificates. The said community certificate remains unchallenged till date and is in vogue.

3. It is stated that the petitioner was appointed as a Clerk in Southern Railway, under the Scheduled Tribe quota and subsequently, she was promoted as Chief Office Superintendent, Personal Branch on 10.5.1998 and at present, she is working in



4. While things stood thus, the employer of the petitioner requested the first respondent to enquire into the correctness of the community certificate issued to the petitioner. It is pleaded that there is no break in service till date.

5. It is the case of the petitioner that even though the first respondent by letter dated 8.9.2016 directed the Deputy Superintendent, SC/ST Vigilance Cell, Salem Region to conduct an enquiry regarding the communal status of the petitioner, the third respondent issued communication only on 21.4.2018, 2.5.2018 and 15.5.2018 calling her to appear for an enquiry. It is alleged that despite reference made as early as 2008 by the employer, the respondent authorities have slept over the issue for over ten years and are now issuing notices asking her to appear for an enquiry causing mental agony and subjecting her to harassment, despite holding a valid community certificate as on date.

6. In such backdrop, the petitioner has filed this writ petition seeking the relief as aforesaid.

7. 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.

8. The learned counsel appearing for the petitioner submitted that the petitioner as on date is holding a valid community certificate to the effect that he belongs to "Konda Reddy" Community. He submitted that almost after rendering 27 years of service, the Southern Railway requested the first respondent to verify the correctness of the community certificate of the petitioner and now, after lapse of another ten years, the third respondent called upon the petitioner to appear before him, subjecting her to harassment.

9. 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 proceedings of the respondents impugned in this writ petition are in 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.

10. The learned Special Government Pleader appearing for the respondents submitted that the impugned proceedings were issued 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 proceedings impugned are issued only as per law and the same need not be interfered with.

11. It appears that the petitioner was appointed as Clerk in the Southern Railway on 14.9.1981 under Schedule Tribes quota and was promoted as Chief Office Superintendent on 10.5.1998. After rendering unblemished services for 27 years, the employer of the petitioner referred the community certificate of the petitioner to the first respondent. After eight years therefrom, the first respondent issued a letter dated 8.9.2016 to the Deputy Superintendent, SC/ST Vigilance Cell, Salem Region to conduct an enquiry regarding the communal status of the petitioner, and thereafter, after another two years the third respondent issued communication only on 21.4.2018, 2.5.2018 and 15.5.2018 calling him to appear for an enquiry.

12. On a verification of the typed set of papers, I find that the petitioner was issued with community certificate on 7.8.1981 by the Special Tahsildar (Stamps), Coimbatore stating that he belongs to "Konda Reddy" community, which has been recognised as a Scheduled Tribe.

13. 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.

<https://hcservices.ecoits.gov.in/hcservices/> 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)

14. 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.

15. It is beyond any cavil that community certificate was issued to the petitioner by the Special Tahsildar (Stamps), Coimbatore to the effect that he belongs to "Konda Reddy" community and the same has not been cancelled by any authority till date.

16. 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."

17. 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.

18. Even though the employer of the petitioner referred the community certificate of the petitioner to the first respondent as early as 1.2.2008 for verification, the first respondent had not concluded the proceedings till date. The first respondent had not even taken steps to conduct a detailed enquiry, but for asking the petitioner to appear for enquiry. It is a sorry state of affairs. The first respondent had not chosen to expedite the process and because of the delay in compliance with the said order, the petitioner is subjected to mental agony. The whys and wherefores for such delay are not explained by the respondent authorities.

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

(a) the writ petition is allowed and the proceedings impugned in this writ petition are set

aside;

(b) it is made clear that the employer of the petitioner shall forthwith not insist on any



verification of the communal status of the petitioner by the first respondent;

(b) No costs. Consequently, W.M.P. (MD) No.10453 of 2018 is closed.

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Sd/-

Assistant Registrar(Crl side)

/True Copy/

Sub Assistant Registrar

To:

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 Assistant Commissioner of Police,
Social Justice and Human Rights Unit
District SC/ST Vigilance Cell,
Coimbatore City,
O/o.Coimbatore Commissioner of Police
Coimbatore - 641 018.

+ 1 cc TO Mr.N.Naganathan , Advocate in SR No. 70097

VSV

AE/SKN RSK/SAR1/06.07.2018/6P/5C

order made in
W.P.(MD) No.11470 of 2018
27.06.2018