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

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

and

THE HON'BLE MRS. JUSTICE T.KRISHNAVALLI

W.P.(MD)No.11473 of 2018

and

WMP(MD)No.10464 & 10465 of 2018

N.Rengarajan

.. 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,
Social Justice and Human Rights Unit
District SC/ST Vigilance Cell,
Armed Force Compound,
Opp. New Bus Stand, Pudukottai.

.. 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 order of the first respondent in Letter No.10545/CV-2/2015-4, dated 5.11.2015, and the Vigilance Cell Enquiry Summon Letter Na.Ka.No.15/SC-ST/Vigilance Cell/PDK/17, dated 18.9.2017, Letter Na.Ka.No.92/Sa.Nee.Ma.VuPee/Pudhugai/2017, dated 18.4.2018 and Letter Na.Ka.No.15/Sa.Nee.Ma.Vu.Pee/Puthugai/2017, dated 9.5.2018 of the third respondent, to quash the same and consequently to declare the community status of the petitioner as Kattu Nayakkan Schedule Tribe community based on the community certificate of the petitioner dated 24.2.1976 issued by the Tahsildar, Mayuram, Nagapattinam 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 K.Dis.12486/76 G7, dated 24.7.1976 of the District Collector, Thanjavur, Report of the Tahsildar, Thirumayam Roc.B4.5816/80, dated 5.9.1980, 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).



For Petitioner : Mr.N.Naganathan
For Respondents : Mr.V.R.Shanmuganathan
Spl. Government Pleader

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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 order of the first respondent in Letter No.10545/CV-2/2015-4, dated 5.11.2015, and the Vigilance Cell Enquiry Summon Letter Na.Ka.No.15/SC-ST/Vigilance Cell/PDK/17, dated 18.9.2017, Letter Na.Ka.No.92/Sa.Nee.Ma.VuPee/Pudhugai/2017, dated 18.4.2018 and Letter Na.Ka.No.15/Sa.Nee.Ma.Vu.Pee/Puthugai/2017, dated 9.5.2018 of the third respondent, to quash the same and consequently to declare the community status of the petitioner as "Kattu Nayakkan" Schedule Tribe community based on the community certificate of the petitioner dated 24.2.1976 issued by the Tahsildar, Mayuram, Nagapattinam 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 K.Dis.12486/76 G7, dated 24.7.1976 of the District Collector, Thanjavur, Report of the Tahsildar, Thirumayam Roc.B4.5816/80, dated 5.9.1980, Letter No.35404/ADW II/91, dated 16.9.1991 issued by 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 "Kattu Nayakkan" community, which is classified as Scheduled Tribe community and to that effect, he obtained a community certificate from the Tahsildar, Mayuram Taluk, Nagapattinam District on 24.2.1976 and thereafter, another community certificate was issued to the petitioner by the Tahsildar, Mayuram on 16.5.1979 to the very same effect. According to the petitioner, his relatives were also issued with "Kattu Nayakkan" community certificates. The said community certificate remains unchallenged till date and is in vogue.

3. It is stated that the petitioner was appointed as Chargeman 'B' in Southern Railway, under the Scheduled Tribe quota and subsequently, he was promoted as Senior Section Engineer and had attained the age of superannuation on 31.7.2010.

4. While the petitioner was in service, his employer requested the Tahsildar, Thirumayam to enquire into the correctness of petitioner's community certificate. The Tahsildar, Thirumayam, on 5.9.1980, submitted a report to the District Collector, Pudukottai on 5.9.1980 to the effect that the



petitioner belongs to Kattu Nayakkan Community. The Revenue Divisional Officer also gave a report on 3.3.1981 to the very same effect. However, the District Collector, Pudukottai cancelled the community certificate issued to the petitioner, without considering the above said two reports. On a challenge to the said order, this Court, by order dated 5.12.2002 made in W.P.No.3621 of 1996, set aside the order passed by the Collector. Thereafter, after series of civil litigations, the employer ultimately referred the community certificate to the first respondent on 4.5.2010.

5. It is further averred that in view of non payment of retirement benefits, the petitioner filed O.A.No.905 of 2010 before the Central Administrative Tribunal, Chennai Bench and the same was allowed on 25.10.2013 and the challenge made to the same by the employer of the petitioner was dismissed by this Court by order dated 7.7.2015 passed in W.P.No.19234 of 2014.

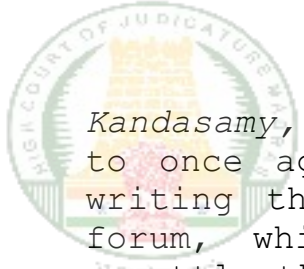
6. It is the case of the petitioner that even though the first respondent by letter dated 5.11.2015 directed him to appear for an enquiry and subsequently the third respondent issued similar proceedings on 18.9.2017, 18.4.2018, 9.5.2018, there is no progress in the matter and the petitioner is being subjected to harassment, despite holding a valid community certificate as on date.

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

8. 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.

9. The learned counsel appearing for the petitioner submitted that the petitioner is a retired employee of the Southern Railway and he was issued with "Kattu Nayakkan" community certificates on 24.2.1976 and 16.5.1979 by the Tahsildar. He submitted that on the verge of retirement of the petitioner, i.e., two months prior to his retirement, the Southern Railway requested the first respondent to verify the correctness of the community certificate of the petitioner and now, after lapse of almost eight years, the third respondent called upon the petitioner to appear before him.

10. 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 on or after 1.1.1989 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.

11. 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.

12. It appears that the petitioner was appointed as Chargeman 'B' in the Southern Railway on 25.8.1976 under Schedule Tribes quota and he retired from service on 31.7.2010 as Senior Section Engineer.

13. It is seen from the records that on the verge of this retirement, i.e., on 4.5.2010, the employer of the petitioner referred the community certificate of the petitioner to the first respondent. After five years, the first respondent issued a letter dated 5.11.2015 to the petitioner calling upon him to appear before the State Level Scrutiny Committee for enquiry. Thereafter the third respondent issued similar letter dated 18.9.2017, 18.4.2018 and 9.5.2018.

14. On a verification of the typed set of papers, we find that the petitioner was issued with community certificates on 24.2.1976 and 16.5.1979 by the Tahsildar, Tirumayam stating that he belongs to "Kattunayakkan" community, which has been recognised as a Scheduled Tribe.

15. 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.

<https://hcservices.ecourts.gov.in/hcservices/Case>
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)

16. 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.

17. It is beyond any cavil that community certificate was issued to the petitioner by the Tahsildar, Tirumayam to the effect that he belongs to Kattunayakkan community and the same has not been cancelled by any authority till date.

18. 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."

19. 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.

20. Even though the employer of the petitioner referred the community certificate of the petitioner to the first respondent as early as 4.5.2010 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, who had since retired from service, is subjected to mental agony. The whys and wherefores for such delay are not explained by the respondent authorities.



21. 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) in case the retirement benefits of the petitioner are not paid till date, on production of a copy of this order, the employer of the petitioner shall forthwith release all benefits due and payable to the petitioner, without insisting on any verification of the communal status of the petitioner by the first respondent;

(b) No costs. Consequently, W.M.P. (MD) Nos.10464 and 10465 of 2018 are closed.

Sd/-

Assistant Registrar(T&P)

/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 Deputy Superintendent of Police,
Social Justice and Human Rights Unit
District SC/ST Vigilance Cell,
Armed Force Compound,
Opp. New Bus Stand,
Pudukottai.

+1cc to Mr.N.Naganathan, Advocate Sr.No.70098

VSV

VB/SB/SAR2/06.07.2018/6P/5C

order made in
W.P. (MD) No.11473 of 2018
27.06.2018