



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.11556 of 2018
and
WMP (MD) Nos.10526 and 10527 of 2018

P.R.Nagarajan

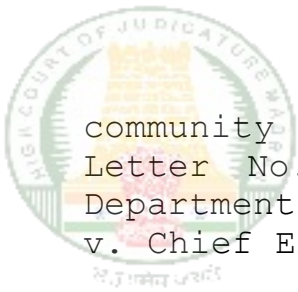
.. Petitioner

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 first respondent in Letter No.19176/CV-2/2015-2, dated 17.11.2016 and the Vigilance Cell Enquiry Commission Letter Na.Ka.No.92/Sa.Nee.Ma.Vu Pee/Pudhugai/2017, dated 22.9.2017, Letter Na.Ka.No.92/Sa.Nee.Ma.Vu.Pee/Pudhugai/2017 dated 9.5.2018 of the third respondent and to quash the same and consequently to declare the community status of the petitioner as Kattu Nayakkam Schedule Tribe community based on the community certificate of the petitioner C.A.No.889/81, dated 22.6.1981 issued by the Headquarters Deputy Tahsildar, Thirumayam Taluk, Pudukottai 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.

WEB COPY

For Petitioner

: Mr.N.Naganathan

For Respondents

: Mr.V.R.Shanmuganathan

Spl. Government Pleader

ORDER

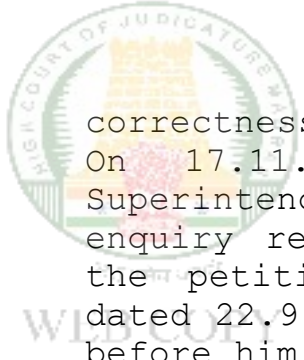
[Judgment of the Court was delivered by M.V.MURALIDARAN,J.]

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.19176/CV-2/2015-2, dated 17.11.2016 and the Vigilance Cell Enquiry Commission Letter Na.Ka.No.92/Sa.Nee.Ma.Vu.Pee/Pudhugai/2017, dated 22.9.2017, Letter Na.Ka.No.92/Sa.Nee.Ma.Vu.Pee/Pudhugai/2017 dated 9.5.2018 of the third respondent and to quash the same and consequently to declare the community status of the petitioner as "Kattu Nayakkan" Scheduled Tribe community based on the community certificate of the petitioner C.A.No.889/81, dated 22.6.1981 issued by the Headquarters Deputy Tahsildar, Thirumayam Taluk, Pudukottai 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.

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 Headquarters Deputy Tahsildar, Thirumayam on 22.6.1981. According to the petitioner, his relatives were issued with "Kattu Nayakkan" 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-Cashier in the Canara Bank in Pollachi on 23.6.1984 under the Scheduled Tribe quota and is now working in Oppanakara Street Branch, Coimbatore. The petitioner was working without break in service.

<https://hcservices.ecourts.gov.in> By letters dated 03.11.2015 and 26.2.2016, the Canara Bank had requested the first respondent to enquire into the



correctness of the certificate issued in favour of the petitioner. On 17.11.2016, the first respondent directed the Deputy Superintendent, SC/ST Vigilance Cell, Madurai Region to conduct an enquiry regarding the community certificate issued in favour of the petitioner and the third respondent issued communications dated 22.9.2017 and 9.5.2018 calling upon the petitioner to appear before him for enquiry.

5. According to the petitioner, G.O.Ms.No.2137, dated 11.11.1989 issued by Adi Dravidar and Tribal Welfare Department would go to show that the certificate obtained by individuals are valid and the same was clarified by the ADTW Department in its Letter No.35404/ADW II/91-1, dated 16.9.1991.

6. 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.

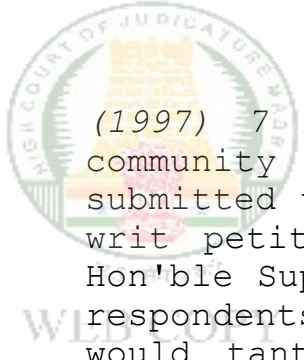
7. I heard Mr.N.Naganathan, learned counsel appearing for the petitioner and Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents and also perused the materials available on record.

8. The learned counsel appearing for the petitioner submitted that the proceedings of the respondent authorities does not disclose any valid reason for the verification of the community certificate of the petitioner. He submitted that the respondent authorities failed to consider the fact that only after thorough verification and scrutiny of the revenue records, the Tahsildar had issued the community certificate in favour of petitioner.

9. The learned counsel argued that the proceedings of the respondent authorities in compelling the petitioner to furnish certificates of the petitioner's parents and property documents of the year 1950 nearly after three decades is highly arbitrary, unsustainable and liable to be quashed.

10. He argued that it is well settled that once community certificates are issued to close relatives of a person to the effect that they belonged to a particular community, then it has to be presumed that the particular person also belongs to that community. In the case on hand, the relatives of the petitioner were issued with Scheduled Tribe community certificate.

<https://hcservices.ecourts.gov.in/hcservices/> learned counsel argued that the respondent authorities have 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 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 of proceedings, but also unsettle the settled issue.

12. The learned Special Government Pleader appearing for the respondents submitted that 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.

13. It appears that the petitioner was appointed as Clerk-cum-Cashier in the Canara Bank on 23.6.1984 under the Scheduled Tribe quota and he was still in service without any break.

14. It also appears that the Canara Bank, Coimbatore, by letters dated 03.11.2015 and 26.2.2016 requested the first respondent to inquire into the correctness of the community certificate issued in favour of the petitioner dated 22.6.1981 after a lapse of three decades.

15. Though the petitioner joined the services of the Canara Bank in the year 1984, after a lapse of nearly 30 years, they had requested the first respondent to enquire into the correctness of the community certificate. What prompted the first respondent in sending the impugned communication to the third respondent to verify the genuineness of the community certificate issued to the petitioner has not been established.

16. The first respondent, in his communication simply stated that he received letter from the Assistant General Manager, Canara Bank, Coimbatore, wherein he had requested the Government to cause verification of genuineness of the Scheduled Tribe Kattu Nayakan form of caste certificate issued to the petitioner. However, the said authority has not placed on record any materials to show that he found the claim of the petitioner as not genuine or spurious. Further no fraud, forgery or misrepresentation of obtaining the community certificate by the petitioner has been stated in the impugned proceedings of the first respondent. <https://hdservices.mca.gov.in/hdservice/> is no proof adduced by the employer of the petitioner showing that by obtaining false community certificate, the petitioner is working in the Bank.



17. In *Kandasamy, supra*, the Hon'ble Supreme Court held that community certificates issued prior to 11.11.1989 are valid. Since the community certificate issued to the petitioner was dated 22.6.1981 prior to 11.11.1989, the communal status of the petitioner has reached finality. Neither any change of circumstances nor any complaint regarding the genuineness of the community certificate issued in favour of the petitioner had been produced by the respondent authorities. Therefore, we find that the proceedings of the respondent authorities calling upon the petitioner to appear for an enquiry and to produce documents stated therein are not in accordance with law.

18. As rightly argued by the learned counsel for the petitioner, if the respondent authorities are allowed to once again re-enquire/re-verify the social status of the petitioner, it would amount to re-writing the findings and the dictum of law settled by the judicial forum. Moreover, based on the social status given to the petitioner, he is serving in the Bank and based on the communal status issued to him, certain other rights have been conferred on him. No valid reason for verification of the community certificate of the petitioner has been given in the impugned proceedings by the respondent authorities.

19. The impugned proceedings of the respondent authorities calling upon the petitioner to produce the birth extract and school record sheet of him and parents and also relationship certificate issued by the Revenue officials etc., nearly after three decades, is arbitrary and unsustainable in law and the same are liable to be set aside.

20. In the light of the above discussions, the writ petition is allowed and the impugned proceedings of the respondent authorities are quashed. No costs. Consequently, WMP(MD) Nos.10526 and 10527 of 2018 are closed.

Sd/-

Assistant Registrar(Crl side)

/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,



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.

+ 1 cc TO Mr.N.Naganathan , Advocate in SR No. 70102

VSV

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

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and
WMP(MD) Nos.10526 and 10527 of 2018
27.06.2018