



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.11.2018**

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBBIAH**

AND

THE HONOURABLE MRS.JUSTICE **R.THARANI**

W.P. [MD] .No.22793 of 2018

and

W.M.P (MD) Nos.20661 & 20662 of 2018

N.Ganapathy

: Petitioner

Vs.

1. The Chairman,
The State Level Scrutiny Committee,
Adi-Dravida & Tribal Welfare Department,
Namakkal Kavingar Maaligai,
Secretariat,
Chennai.

2. The District Collector,
Tirunelveli District,
Tirunelveli.

3. The Senior Superintendent,
RMS "MA" Division,
Madurai.

4. Post Master General,
Southern Region,
Madurai Division,
Madurai-2.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent in his proceedings in No.4994/CV-2/2001-12 dated 04.09.2018 and quash the same as illegal and consequentially to direct the respondents to issue community certificate to the petitioner holding that the petitioner belongs to Kattunayakkan Community.

For Petitioner

: Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

For R1 & R2

: Mr.R.Sethuraman
Special Govt. Pleader

For R3 & R4

: Mr.S.Jeyasingh

**O R D E R**

[Order of the Court was made by R.SUBBIAH, J.]

This writ petition has been filed seeking issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent in his proceedings in No.4994/CV-2/2001-12, dated 04.09.2018 and quash the same and consequently to direct the respondents to issue community certificate to the petitioner holding that the petitioner belongs to Kattunayakkan Community.

2. The case of the petitioner is that he belongs to Kattunayakkan Community. He was initially appointed as Sorting Assistant on 06.03.1979 at Sub Record Officer, Railway Mail Service, Madurai Division, Kodai Road under ST quota. Considering his unblemished service, he was promoted as Head Sorting Assistant on 17.12.2009 at Sub Record Officer, RMS, MA Division, Nagercoil. He had been working as such without giving any room for complaints. While so, after lapse of ten years of his entry into service, a doubt was raised with regard to genuineness of the petitioner's community certificate. Hence, the District Collector, Tirunelveli directed the petitioner to appear before the Vigilance Committee for enquiry. As against the same, the petitioner filed a writ petition in W.P(MD)No.6332 of 2005. This Court, directed the petitioner to approach the State Level Scrutiny Committee. While the matter stood thus, the petitioner reached the age of superannuation on 30.06.2011 and he was allowed to retire from service after having rendered 33 years of service. As per the direction of this Court, the petitioner approached the State Level Scrutiny Committee. The State Level Scrutiny Committee, while appreciating the facts on record, rejected the petitioner's claim by proceedings, dated 23.02.2011 and thus cancelled the Community Certificate issued in favour of the petitioner.

2.1. Aggrieved against the said order, the petitioner filed a writ petition in W.P(MD)No.2824 of 2011 and this Court by order dated 12.04.2017 partly allowed the writ petition on the ground that the report of the Vigilance Cell was not furnished to him. Hence, the matter was remanded back to the Vigilance Committee to proceed afresh, after obtaining Vigilance Cell Report. In pursuance thereof, the State Level Scrutiny Committee referred the matter to the Vigilance Cell. After thorough enquiry, the Vigilance Cell submitted a report holding that the petitioner belongs to Hindu Kattunayakkan Community. The Anthropologist has also submitted a report in categorical terms that the petitioner belongs to Hindu Kattunayakkan Community. However, the said report was not furnished to the petitioner. The State Level Scrutiny Committee issued a notice calling upon the petitioner to appear before the Committee. The petitioner appeared before the State Level Scrutiny Committee and he answered the question in a proper manner.



2.2. The first respondent, while discarding all these evidences and documents, has simply relied on the sale deed executed in the year 1944, in which, the petitioner's father's community was mentioned as 'Naicker'. However, the very same sale deed also reads that the petitioner's family are hailing from 'Kuluvajaathi Vamsam'. The document writer at that point of time had wrongly mentioned the petitioner's father's community as 'Naicker'. In fact, the petitioner's own brother's grandson was issued with the Community Certificate that he belongs to Hindu Kattunayakkan Community. The petitioner's cousin was also issued with the Community Certificate of Hindu Kattunayakkan. The petitioner's own son was also issued with the conduct certificate by the School Education Department indicating that he belongs to Hindu Kattunayakkan Community. Though the aforesaid facts were brought to the notice of the Committee, the Committee has not considered the same. By ignoring all these facts the Committee had passed the impugned order cancelling the Community Certificate issued in favour of the petitioner. Aggrieved over the same, the present writ petition has been filed by the petitioner for the aforesaid prayer..

3. When the matter was taken up for consideration, the learned counsel for the petitioner, by relying upon the judgment of this Court reported in **2016(1) CWC 359 (M.Ayyanar vs. The District Collector, Collectorate)** as well as the unreported judgment **(T.Chozhavendan vs. The Principal Secretary/Chairman, Chennai-9 and another)** in **W.P.No.27402 of 2016**, submitted that in similar circumstances, the Division Bench of this Court held that the State Level Scrutiny Committee, on receipt of the Vigilance Cell Report, if it is found adverse, shall issue a Show Cause Notice to the candidate with a copy of the Report and all the documents submitted by the Vigilance Cell to the concerned candidate, calling upon him to file his reply/explanation/representation and also express his intention to examine witnesses, if necessary. In the event the Report supports the claim of the candidate, the State Level Scrutiny Committee shall not proceed further and pass the order. So far as the present case is concerned, the Vigilance Cell Report is in favour of the petitioner. Therefore, the order passed by the State Level Scrutiny Committee is not legally and the same is liable to be set aside.

4. We have gone through the Vigilance Cell Report, which shows that the petitioner belongs to Kattunayakkan Community. When such being the position, as held by the Division Bench of this Court, the State Level Scrutiny Committee ought not to have proceeded further to pass the impugned order. Therefore, we are of the opinion that the impugned order is liable to be quashed. Accordingly, the impugned order, dated 04.09.2018 in Proceedings in No.4994/CV-2/2011-12 passed by the first respondent is quashed and the respondents are directed to issue community certificate to the petitioner holding that he belongs to Kattunayakkan Community.



5. With the above observations, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(W)

WEB COPY

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Chairman,
The State Level Scrutiny Committee,
Adi-Dravida & Tribal Welfare Department,
Namakkal Kavingar Maaligai,
Secretariat, Chennai.
2. The District Collector,
Tirunelveli District,
Tirunelveli.
3. The Senior Superintendent,
RMS "MA" Division,
Madurai.
4. Post Master General,
Southern Region,
Madurai Division,
Madurai-2.

+1cc to M/s.Ajmal Associates ,Advocate Sr.No.96365

+1cc to Mr.S.Jeyasingh,Advocate Sr.No.96178

+1cc to SPL.Govt.Pleader, Sr.No.96702

AM

KM/BK/SAR3/20.12.2018/4P/8C

ORDER MADE IN
W.P (MD) No.22793 of 2018
20.11.2018