

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.09.2019

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

WP.No.8678 of 2018 & WMP.Nos.10601 to 10603 of 2018

Hindu Aadhiyan Pazhangudi Inam
Makkal Nala Munnetra Sangam
Apparakudi, rep.by Secretary
Mr.K.Raju, Sivan Koil Street
Apparakudi, Kachanam PO
Thiruthuraipoondi Taluk
Thiruvarur District.

... Petitioner

Vs.

- 1.The Secretary
Scheduled Caste and Scheduled Tribe
Welfare Department, Government of
Tamil Nadu, Secretariat, Fort St George
Chennai 600 009.
- 2.The District Collector
Collectorate, Tiruvarur District,
Tiruvarur.
- 3.The District Adi Dravidar & Tribal Welfare Officer
Tiruvarur District, Tiruvarur.
- 4.The Revenue Divisional Officer
RDO Office, Mannargudi,
Tiruvarur District.
- 5.The Revenue Divisional Officer
RDO Office,
Tiruvarur, Tiruvarur District.
- 6.The Director
Tribal Research Centre
M.Palada, Udhagamandalam
Nilgiris District, Tamil Nadu.

..Respondents

Prayer:- Writ petition filed under Article 226 of the
Constitution of India praying for a writ of certiorarified
mandamus calling for the records from the 6th respondent

pertaining to the impugned report prepare by the 6th respondent pursuant to RC.Lr.No.7633/2011/K5 dated 23.10.2001 of the 3rd respondent and to quash the same and consequently, direct the respondents 2 to 5 to issue the Scheduled Tribe community certificate to the members of the petitioner Sangam, by deeming them as belonging to Hindu Aadhiyan Caste covered under the Tribal Community in Tiruvarur District.

For Petitioner : Mr.K.M.Subrahmaniam
For Respondents : Mr.R.Udhayakumar,
Additional Government Pleader

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

- (1) By consent, the writ petition, styled as a Public Interest Litigation, is taken up for final disposal. Mr.R.Udhayakumar, learned Additional Government Pleader appears on behalf of the respondents.
- (2) The petitioner representing as the Secretary of the petitioner/Association, would submit that he belongs to Scheduled Tribe Community, viz., 'Aadhiyan Caste' and the origin of their Community migrated from Tiruvannamalai District about 150 years ago and stayed at Nagapattinam, Tiruvarur, Cuddalore, Trichy and Tanjore Districts and they are also called as 'Perumal Mattukarar' and they used to travel long distance along with the decorated bull, wear colour turban on their head, apply namam on their forehead and used to wear very many chains and beads on their neck.
- (3) The grievance expressed by the petitioner is that people belonging to their caste and who are residing in Nagapattinam District, was issued with Hindu 'Aadhiyan' Scheduled Tribe Certificate and whereas, in respect of Tiruvarur District, the authorities are refusing to issue Scheduled Tribe Certificates to the people who are residing at Athhipuliyur, Neelapadi and Radhanallur Villages and also in Keevalur areas and repeated representations submitted in that regard, has failed to invoke any kind of response and ultimately, the concerned Scrutiny Committee has submitted a Report, which is impugned herein, holding that Aadhiyan Community people are eligible to get only 'Most Backward Class' Status under the name of 'Jogis' and challenging the legality of the said Report, the present writ petition is filed and it was entertained.
- (4) The 3rd respondent has filed the counter affidavit dated 14.09.2018 refuting the averments and also took a stand that the Certificates issued by Nagapattinam Administration may be

on account of wrong interpretation of the guidelines and in paragraph No.10, had traced the origin of the said Scheduled Tribe community and therefore, the Caste Scrutiny Committee, after taking note of all the materials, and due and proper application of mind, had concluded that they could be classified only as Jogis community and not Aadhiyan Scheduled Tribe Community and in the light of the said fact, they have been conferred with MBC status and prays for dismissal of the writ petition.

(5) The learned counsel for the petitioner would submit that admittedly, the Tanjore District have been trifurcated into Tanjore, Nagapattinam and Tiruvarur Districts and the Aadhiyan Scheduled Tribe Community Certificates were issued to the people who are residing at Nagapattinam ; and however, the said benevolence has been denied to the people residing at Tiruvarur District and further pointed out that the Caste Scrutiny Committee did not apply its mind at all to the relevant materials and therefore, prays for setting aside the Report and remand the matter back for fresh consideration with an opportunity of hearing to the members of the petitioner/Association.

(6) Per contra, Mr.R.Udhayakumar, learned Additional Government Pleader appearing for the respondents would submit that the procedure to find out the community status of Scheduled Caste and Scheduled Tribe has been enumerated by the Hon'ble Supreme Court of India in the decision reported in 1994[6] SCC 241 [Kumari Madhuri Ptil and Another V. Additional Commissioner, Tribal Development and Others] and a Division Bench of this Court, in the decision reported in 2016 [1] L.W. 289 [[G.Venkitasamy V. The Chairman, State Level Scrutiny Committee and Secretary to Government, Adi Dravidar and Tribal Welfare Department, Namakkal Kavingar Maligai, Fort St George, Secretariat, Chennai 600 009], had dealt with the issue relating to social status certificate and in paragraph No.22, had observed that ' ' a proper, systematic and effective enquiry to ascertain the social status of an applicant is of paramount importance for more than one reason ' ' and in paragraph No.29, had enumerated the following guidelines and it is relevant to extract the same:-

' '29. From the aforesaid analysis, it is manifest that the authorities are required to investigate, identify and conduct the enquiry in the following manners:-

i. The authority competent to issue the community certificate, on receipt of the application, shall investigate the application in an open and transparent

fashion, affording opportunity of hearing.

ii. The candidate shall have full liberty to explain the documents placed by him or collected by the investigating agency and he shall have opportunity to cross examine the witnesses, if required. The entire exercise shall be completed at the earliest.

iii. On receipt of the community certificate issued by the competent authority, the candidate or any other party interested therein may refer the matter to the State Level Scrutiny Committee for verification.

iv. On receipt of the application for verification, the State Level Scrutiny Committee shall refer the matter to the Vigilance Cell for enquiry.

v. The Vigilance Cell, as constituted, shall investigate into the social status claim of the applicant, visiting the local place of residence and original place from which the candidate hails and usually resides. The Vigilance Officer, assisted by the Inspector of Police, shall verify all the documents and collect relevant facts in an open and transparent manner from all the relevant places such as school, locality etc., and persons such as parents and close relatives and also examine the school officials, parents/guardians and other close relatives of the concerned caste. The Vigilance Cell shall also record the anthropological and ethnological traits and rituals, customs, mode of marriage and other ceremonies of the community claimed by the candidate. Thereafter, on receipt of explanation from the candidate, on a proper examination of the same, a reasoned report shall be submitted to the State Level Scrutiny Committee.

vi. 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, on completion of the enquiry, shall not proceed further, but, to pass the order.

vii. The State Level Scrutiny Committee, on completion of the enquiry, shall send a copy of the proceedings/order to the candidate within a period of two weeks.

viii. Such verification shall be completed within a period of two months, after receipt of the Vigilance Cell report, preferably, by day-to-day proceedings [see paragraph 13[9] of Kumari Madhuri Patil [supra]].

(7) This Court has considered the rival submissions made on either side and also perused the materials placed before it.

(8) A perusal of the impugned Report of the Scrutiny Committee would disclose that the Anthropology information of the community has been collected and thereafter, comparative analysis between the community and Aadhiyans, have also been done and ultimately, concluded that the community people are till today remained as denotified community in Tiruvarur District and they are eligible to get Most Backward Class status under the name of "JOGIS" and, thereby, rejected the contention that the people belonged to Aadhiyan Scheduled Tribe Community.

(9) The Caste Scrutiny Committee has done the work and the perusal of the impugned Report would also disclose that thought process had also gone into before arriving at a decision and it is also an Expert Body. It is a well settled position of law that this Court, will not, normally exercise its jurisdiction as an Appellate Authority, while scrutinising the report of the Expert Body and will not interfere with the same, unless and until the report is per se perverse and there is an error apparent on the face of the Report and in respect of such

reports, the scope of judicial review is also very limited. Therefore, this Court finds no merit in the writ petition.

(10) In the result, the writ petition stands dismissed . No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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Nilgiris District, Tamil Nadu.

+1 cc to The Government Pleader Sr.No.82283

AKM/16.10.19/6P- 8C /

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