

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mrs. Justice R.HEMALATHA

W.P.No.5274 of 2019

M.Palani

..

Petitioner

Vs

1.State Level Scrutiny Committee
represented by the Chairman &
Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat,
Chennai - 600 009.

2.The General Manager (TN)
Food Corporation of India
Regional Office
No.8, Sathiyamoorthi Road,
Chetpet, Chennai - 600 031.

..

Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus forbearing respondent no.1 - Committee from verifying the community certificate bearing No.R.Dis/89/20/50 dated 20.06.1989 issued by the Tahsildar, Purasawakkam, Madras 600 011 to the petitioner.

For Petitioner .. Mr.M.Radhakrishnan

For R.1 .. Mr.E.Manoharan,
Addl. Govt. Pleader

For R.2 .. Mr.S.Vijayakumar

WEB COPY

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner herein was issued with a community certificate by the Tahsildar, Purasawakkam, Madras - 600 011 in Certificate No.R.Dis/89/20150 dated 20.06.1989 having the Village Code as 006, Taluk Code as 02, District Code as 01. The following is the certificate issued -

This is to certify that M.Palani son of Thiru R.Murugesan of Perambur Village/town P.P.Taluk Madras District of the State of Tamil Nadu belongs to Hindu Erukula Community which is recognised as a Scheduled Tribe in relation of Andhra State as per scf Elu I Govt of India G.O.Ms.No.16014/1/80 dated 30.07.85/. The S.C. and S.T. Orders (Amendment) Act 1976 vide SL.No.

2. It is certified that M.Palani and his/her family ordinarily reside(s) at No.48, Thirunavukarasu Village Taluk, Perambur Ms District of the State of Tamil Nadu.

Sd/-
Tahsildar
Purasaiwalkam Taluk
Madras 600 011

2. Admittedly, the petitioner belongs to Schedule Tribe community in the State of Andhra Pradesh. The above community certificate has been issued without taking note of the procedures contemplated in the letter of the Government of India vide letter No.BC-16014/1/82-SC&BCD.I, dated 18.11.1982 which states as follows -

..... that the prescribed authority of a State Government/Union Territory Administration may issue the Scheduled Caste/Tribe certificate to a person who has migrated from other State, on the production of the genuine certificate issued to his father/mother by the prescribed authority of the State of the father's/mother's origin except where the prescribed authority feels that detailed enquiry is necessary through the State of origin before issue of the certificate.....

Now, the second respondent has sent a communication to the first respondent to verify and scrutiny the community certificate of the petitioner.

3. It is not in dispute that the petitioner was given employment with the second respondent based upon the community certificate issued by Tahsildar, Purasawakkam, Chennai. In pursuant to the said communication sent by the second respondent to the first respondent, a notice was issued to the petitioner which is sought to be impugned in the present proceedings on the premise that there is no jurisdiction lies to go into the veracity of the certificate as to the status of the person who belongs to the State of Andhra Pradesh.

4. The learned counsel appearing for the petitioner submitted that the first respondent does not have the power or authority to ascertain the said exercise. The petitioner belongs to Schedule Tribe community in the State of Andhra Pradesh. A certificate issued by the Tahsildar cannot be cancelled. Therefore, the impugned orders is liable to be interfered with.

5. The learned counsel appearing for the second respondent submitted that it is only a Show Cause Notice and therefore, the writ petition is not maintainable. The second respondent is entitled to verify the community certificate issued in favour of the petitioner. If it is found to be not correct, it would amount to fraud on constitution.

6. The learned Additional Government Pleader appearing for the first respondent would submit that a mistake has been committed by the then Tahsildar of Purasawakkam, Chennai. Admittedly, he has not followed the procedures contemplated. Therefore, atleast verification of the certificate could be done and hence the writ petition has to be dismissed.

7. Certainly, the first respondent cannot go into the merits of the case. We do find that the Tahsildar, Purasawakkam has issued the certificate without following the procedures contemplated aforesaid. Therefore, in view of the above, instead of asking the first respondent to do the said exercise, it would be appropriate to direct the Tahsildar, Purasawakkam, Chennai to undertake the said exercise and comply with the procedures contemplated in the letter of Government of India dated 18.11.1982. While doing so, it is still open to him to satisfy the genuineness of the certificate which would also include the decision to be made on the need for a detailed enquiry through the State of Origin. The aforesaid exercise will have to be completed by the Tahsildar, Purasawakkam, Chennai within a period

of twelve (12) weeks from the date of receipt of a copy of this order. Needless to state that the petitioner will have to be issued notice of hearing before taking a final decision in this regard.

8. We make it clear that any confirmation of the earlier certificate will not stand in the way of Tahsildar, Purasawakkam to go into the matter afresh as we find that the procedures are contemplated as per the instructions given by the Government of India.

9. This Writ Petition stands disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.The Chairman & Secretary to Government,
State Level Scrutiny Committee
Adi Dravidar and Tribal Welfare Department,
Secretariat,
Chennai - 600 009.

2.The General Manager (TN)
Food Corporation of India
Regional Office
No.8, Sathiyamoorthi Road,
Chetpet, Chennai - 600 031.

3.The Tahsildar
Purusaiwakkam
Chennai 600 011

+1 cc to Mr.M.Radhakrishnan Advocate sr88330
+1 cc to Mr.S.Vijayakumar Advocate sr87656
+1 cc to the Government Pleader sr88270

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