

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2019

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THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P.No.34914 of 2013

and

M.P.Nos.2 of 2013 & 5804 of 2017

Tamilnadu Kattapomman Kattumana
Amaippurchara Thozhurchangam,
Rep., by its President, V.Anbu,
S.Nattamangalam, Salem.

.. Petitioner

-vs-

1.The Government of Tamil Nadu,
Rep., by Secretary to Government,
Labour Welfare Department,
Fort St. George, Chennai-600 009.

2.The Labour Commissioner,
DMS Compound,
Teynampet, Chennai.

3.The Labour Officer,
Social Security Scheme,
Salem.

.. Respondents

Petition under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorari to call for the
records of the 3rd respondent pertaining to his proceedings in
Na.Ka.No.A1/12424/10-25 dated 29.04.2013 and quash the same.

For Petitioner : Mr.M.Selvam

For Respondents : R1 - Mr.J.Ramesh,
Additional Government Pleader

ORDER

The order dated 29.04.2013, passed by the 3rd respondent in
proceedings in Na.Ka.No.A1/12424/10-25 is under challenge in the
present writ petition.

2.The writ petitioner is Tamilnadu Kattapomman Kattumana Amaippurchara Thozhirschangam.

3.The grievance of the writ petitioner is that the 3rd respondent passed an order impugned stating that the writ petitioner Sangam submitted bogus death certificates for the purpose of claiming natural death benefit under the scheme.

4.During the investigation, it was found that the writ petitioner Sangam had given such false certificates in many number of cases and based on the certificates, the Government also disbursed the funds under the scheme. Under these circumstances, the 3rd respondent passed an order stating that the writ petitioner Sangam is refrained from issuing any recommendations or certificates for the purpose of getting the natural death benefit.

5.In respect of similar issue, this Court considered a writ petition filed by Tamilaga Kattida Thozhilalargal Sangam in W.P.No.11247 of 2015 dated 25.10.2019 (Tamilaga Kattida Thozhilalargal Sangam vs. The Secretary, Tamil Nadu Construction Workers and Another), wherein the facts are also similar. In that case also, the petitioner Sangam submitted bogus death certificates for the purpose of claiming natural death benefit. At this juncture, it would be relevant to extract the relevant paragraphs as hereunder:-

"3.The allegations against the writ petitioner is that they have recommended applications in respect of the members of the petitioner's Sangam and those recommendations as well as the death certificate enclosed along with the application were found as bogus and accordingly the genuinity of the death certificate was verified by the respondent authorities and consequently, the impugned order was passed under Section 6A of the Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Act, 1982.

4.The counter affidavit filed by the second respondent reveals that the petitioner Union counter signed the Natural Death claim application pertaining to the death of Thiru.Subramani Asari S/o Ponnusamy Asari residing at 61, Keel Street, Odhiyathu, Gangavalli (North), Salem District. The deceased was a member of the Tamil Nadu Construction Workers Welfare Board. The said Subramani Asari died on 06.06.2008 and his nominee Tmt.Parameswari submitted a death certificate with Serial No.15 along with the claim petition. A sum

of Rs.17,000/- was sanctioned as natural death benefit. The audit team verified the Death Register maintained by the Revenue Department and it was found that the death certificate with Serial No.15 was issued in favour one Thiru.Muthu, who died on 11.08.2008 and not in favour of Thiru.Subramani Asari as claimed in the application. Thus, it was found that the death certificate in favour of Thiru.Subramani Asari was bogus.

5.This Court is of the considered opinion that the Government Welfare Schemes are to be implemented strictly in accordance with the terms and conditions of the scheme and documents, filed by the persons who all are claiming such welfare benefits, are to be verified. There cannot be any compromise in respect of verification of the genuinity of the certificates produced by the claimants. In the event of identifying that the certificates submitted by the claimants are bogus then the authorities competent are bound to initiate criminal proceedings by registering a case. Submission of bogus death certificate is an offence and such bogus certificates are filed in order to avail the benefits from and out of the Government Welfare Schemes and such schemes are implemented through the tax payers money and therefore, the authorities must be cautious and initiate action against all such illegalities and offences, if any, committed by the claimants or the persons who have assisted the claimants for the purpose receiving such Government benefits. Though actions are initiated in this case to suspend the recognition of the writ petitioner's sangam, no further actions are initiated regarding the bogus certificate produced for the purpose of claiming the Government benefits. It is pertinent to note that only in the event of initiating such actions all such illegalities can be prevented. Otherwise the claimants will be of the opinion that they can submit such false certificates and avail the Government benefits and thereafter, escape from the clutches of law.

6.In the present case on hand, on verification, the authorities found that the certificate submitted by the beneficiary was a bogus certificate. However, the writ petitioner's sangam states that they are not responsible for any such bogus certificates as they have forwarded

the certificates submitted by the Members to the authorities competent. While, forwarding such applications, the writ petitioner's sangam is signing a declaration in Form-D that the particulars furnished by the claimants are true and correct. However, this Court cannot go into these aspects, as the dispute involves an enquiry and adjudication. There is a possibility that the claimants would have submitted a bogus certificate to the Association and the Association office Bearers can not be aware of the genuinity of the certificate. It is equally possible that the office bearers would have assisted the claimants to get such bogus certificate from the authorities. All such circumstances are possible in the current day scenario and these facts and truth behind the bogus certificates are to be culled out only by way of an enquiry in the event of filing a criminal case.

7. Thus, this Court cannot offer or make any finding in this regard and it is for the authorities competent to conduct an enquiry in respect of the involvements of the office bearers of the Sangam or the illegality committed by the claimants on behalf of whom such applications were forwarded by the sangam to the competent authorities.

8. However, the fact remains that the death certificate submitted by the claimant was found as a bogus one and therefore, actions are initiated. This apart, the impugned order was issued under Section 6-A of the Act, which empowers the authority to suspend and cancel the registration. An appeal remedy is contemplated and the appeal is also filed by the petitioner. Thus, the appellate authority/first respondent is directed to consider all these aspects including the involvement of Sangam in the matter of recommending the applications or their involvement in obtaining the bogus certificate in collusion with the claimants and thereafter take a decision by affording an opportunity to all the parties concerned. On identification of such bogus certificate in future, they have to initiate criminal action against all the persons concerned by registering a case before the appropriate police authority. This being the factum, the first respondent/appellate authority is directed to take the appeal for adjudication and dispose of the same as

expeditiously as possible preferably within a period of twelve(12) weeks from the date of receipt of a copy of this order. Accordingly, the writ petition stands disposed of. No costs."

6. In view of the above, this Court is of an opinion that the writ petitioner Sangam has not made out any acceptable ground for the purpose of getting the relief as such sought for in the present writ petition. If at all any grievances exist with reference to such bogus certificates or otherwise, the petitioner Sangam is at liberty to approach the competent authority in the manner known to law.

7. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

abr
To

1. The Secretary to Government,
The Government of Tamil Nadu,
Labour Welfare Department,
Fort St. George, Chennai-600 009.

2. The Labour Commissioner,
DMS Compound,
Teynampet, Chennai.

3. The Labour Officer,
Social Security Scheme,
Salem.

+1cc to Mr.M.Selvam, Advocate SR.96712
+1cc to the Government Pleader SR.97596

MP (CO)
CB(30/12/2019)

W.P.No.34914 of 2013