

Cont P. Nos. 772 & 899 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2019

Coram

The Hon'ble Mr. Justice **M.M. SUNDRESH**
and
The Hon'ble Mr. Justice **RMT. TEEKAA RAMAN**

Cont P. Nos. 772 & 899 of 2019

Cont P No 772 of 2019

1.S.Nagaraji
2.B.Mathappan
3.M.Nagaraji
4.P.Murugesan
5.G.Kamalanathan
6.K.Raja
7.S.Sivalingam
8.C.Madesh
9.M.Rathinavel
10.V.Sekar
11.S.Chinnaraj
12.A.Alagesan
13.K.Madhappan
14.K.Munidevan
15.B.Baruran
16.D.Mageswari
17.A.Vasantha
18.C.Muniyammal
19.S.Krishnan
20.M.Sankar



सत्यमेव जयते... Petitioners
-vs-

Thiru.Ma.Pa.Sivan Arul, IAS,
Revenue Divisional Officer/Sub Collector,
Dharmapuri,
Dharmapuri District. ... Respondent

Cont P No. 899 of 2019

C.Munivel ... Petitioner

-vs-

Thiru.Ma.Pa.Sivan Arul, IAS,
Revenue Divisional Officer/Sub Collector,
Dharmapuri,
Dharmapuri District.

... Respondent

Prayer in Cont P No.772 of 2019: Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondent for wilfully disobeying the order dated 13.06.2018 in W.P.No. 369 of 2018.

Prayer in Cont P No.899 of 2019: Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondent for wilfully disobeying the order dated 13.06.2018 in W.P.No. 34308 of 2017.

For
Petitioner(s) : Mr.M.Radhakrishnan
(in both)
For Respondent : Ms.Narmadha Sampath
(in both) Assistant Advocate
General
: Asst. by
Mr.M.Elumalai,
Government Advocate

COMMON ORDER

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

In the writ petition filed in W.P.No. 34308 of 2018, the following order was passed by the Division Bench dated 13.06.2018:-

"10. In the aforesaid circumstances, there does not appear to be any justification for the Petitioners to contend that their claim for Scheduled Tribe status has to be decided

by the Revenue Divisional Officers merely on the basis of the report of an Anthropologist without examining any other material in support of their claim for the same. As such, we do not find any merits in these Writ Petitions.

11. It is made clear that the Court in these Writ Petitions has not gone into the factual details for the entitlement of the Scheduled Tribe status of any of the Petitioners and that the same shall be expeditiously decided and communicated to the parties by the Revenue Divisional Officers concerned on merits and in accordance with law uninhibited and uninfluenced by any of the observations made in this Order, and file report of such compliance in each of the cases before the Registrar (Judicial) of this Court by 31.07.2018."

Accordingly, the writ petition filed by the petitioner along with the others was dismissed.

2. The present contempt petitions have been filed by raising primarily two grounds. The order passed by the contemnor is contrary to the order of the Division Bench referred supra inasmuch as the report of the compliance has not been filed before the Registrar (Judicial) of this Court, within the stipulated time. It appears that the compliance has been made belatedly. The second ground on

which the contempt petitions have been filed is that the order passed is contrary to the settled principle of law. The Division Bench has directed the contemnor to pass orders on merits and in accordance with law, which has not been done so. In support of his contention, the learned counsel has made reliance upon the following decisions: (i) *All Bengal Excise Licensees Association v. Raghabendra Singh & Ors* (Arising out of S.L.P. (C) No. 15224 of 2006, dated 09.03.2007), (ii) *E.Mani and anr v. The Revenue Divisional Officer, Tiruvannamalai* in W.P. No. 25963 of 2013 dated 23.11.2013.

3. The learned Additional Advocate General appearing for the contemnor would submit that inasmuch as the order has been passed on merit and after affording an opportunity to the petitioners along with the finding that they belong to the Kurumans Community which is classified as Scheduled Tribe, the only remedy open to the petitioners is to challenge the same in the manner known to law. The learned Additional Advocate General further submitted that the delay appears to be not only on the part of the contemnor but also on the part of the petitioners in not submitting the documents.

4. There is no wilful disobedience involved and the delay caused is on administrative reasons. The delay has occasioned in compliance with the order of the Apex Court in *Madhuri Patil's case* reported in (1994) 6 SCC 241.

Therefore, a thorough verification was done not only by getting the assessment from the opinion of the Anthropologist but also after going through the records produced by the petitioners. Therefore, the contempt petitions will have to be dismissed.

5. Law is quite settled that if an order is passed in purported compliance of the order of the Court, then it cannot be termed as wilful or contumacious one. In the case on hand, the writ petition filed was actually dismissed. While doing so, a direction was issued to the contemnor to pass fresh order in accordance with law. Therefore, the remedy open to the petitioners is to challenge the same in the manner known to law. The order has been passed after considering the materials available including the report of the Anthropologist and the documentary as well as the oral evidence.

6. In such view of the matter, we do not find any wilful disobedience of the orders passed. The judgment of the Apex Court referred supra relied upon by the learned counsel for the petitioners has to be seen contextually. Similarly, the judgment of the Division Bench referred supra also does not help the case of the petitioners inasmuch as the rejection is not only on the ground that the petitioners belong to Kurumban Community but they do not belong to the Kurumans Community which is a Scheduled Tribe community.

7. The other contention raised with respect to the non-filing of the report before the Registrar(Judicial) also cannot be countenanced. Though there is a delay, the compliance has been made by filing the Report before the Registrar(Judicial). In any case, this can only be a consequential one. Admittedly, in the case on hand, the petitioners have received the order passed by the Revenue Divisional Officer. We also convinced with the reasons assigned for the delay. The delay also appears to be on the part of the petitioner.

8. Thus, looking from any perspective, we do not find any wilful disobedience of the order passed and the Contempt Petitions stand closed. However, we make it clear that we are not expressing anything on the merits of the case, and ,therefore, all the issues are left open to be decided in the writ petitions to be filed, if so advised.

सतयमेव जयते SD/-

ASSISTANT REGISTRAR (COMM.CASES)

mmi/ssm

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER(O.S.)

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