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IN HIGH COURT OF JUDICATURE AT MADRAS

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|---------------|------------|
| Reserved On   | 26.06.2019 |
| Pronounced On | 17.07.2019 |

CORAM  
THE HONOURABLE MR.JUSTICE R.SUBBIAH  
AND  
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.11576 of 2019  
and  
W.M.P.No.11819 of 2019

K.Ajey

... 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 Director of Tribal Welfare,  
Chepauk, Chennai - 600 005.
  - 3.The Deputy Superintendent of Police,  
SC/ST Vigilance Cell,  
Tiruvallur District,  
Tiruvallur.
  - 4.The Deputy Superintendent of Police,  
SC/ST Vigilance Cell,  
Tirunelveli District,  
Tirunelveli.
- ... 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 in the order bearing Na.Ka.No.72/Sa.Nee.(Ma) Ma.Vu.Pi/2017 dated 09.02.2019 passed by the third respondent and the consequential order bearing Na.Ka.No.Pa.Me/Aa2/4327/2016 dated 15.03.2019 passed by the second respondent and quashing the same, and directing the first respondent to send the community certificate of the petitioner bearing No.R.Dis.11536/04 B2 dated 26.06.2005 issued by the Sub-Collector, Ponneri to the fourth respondent for verification.

For Petitioner : Mr.M.Radhakrishnan



For Respondents

: Mr.V.Shanmuga Sundar  
Special Government Pleader

O R D E R

C.SARAVANAN, J.

The petitioner is currently working as a Manager in Dhenabank. The petitioner had declared that he belongs to the Sholaga Tribal Community and was promoted against the quota for persons belonging to Scheduled Tribe.

2. The petitioner had produced community certificate dated 26.06.2005 issued by the Sub-Collector, Ponneri before his employer. The said certificate was issued to the petitioner when he was aged about 15 years.

3. The genuineness of the certificate and the claim of the petitioner that he belongs to the Sholaga Tribal Community was sent for scrutiny to the 1<sup>st</sup> respondent.

4. Pursuant to the direction of the 1<sup>st</sup> respondent, the petitioner was summoned by the 3<sup>rd</sup> respondent for an enquiry. The petitioner participated in the enquiry and gave his statement on 28.12.2017 before the 3<sup>rd</sup> respondent regarding genuineness of the community certificate. The 3<sup>rd</sup> respondent has since given a report dated 09.02.2019 to the 2<sup>nd</sup> respondent.

5. Based on the report dated 09.02.2019 of the 3<sup>rd</sup> respondent, the 2<sup>nd</sup> respondent has issued impugned Show cause notice dated 15.03.2019 bearing reference No.Na.Ka.No.Pa.Me/Aa2/4327/2016 to the petitioner. The petitioner has also replied to the same on 01.04.2019 and thus participated in the said proceeding.

6. Now the petitioner has filed the present writ petition and has challenged the impugned letters on the ground that the petitioner's ancestors and forefathers hail from Tirunelveli district and therefore only the 4<sup>th</sup> respondent is vested with a power to investigate. The petitioner has relied upon a few passages from the decision of the Hon'ble Supreme Court in Madhuri Patil vs Commr., Tribal Development, (1994) 6 SCC 241.

7. The Learned Government Pleader submits that the present writ petition is liable to be dismissed as the petitioner has challenged a Show Cause notice. Further, having given a reply to the Show cause notice and participated in the proceeding, it is not open for the



petitioner to scuttle the Show cause proceeding.

8. We have considered the submissions of the learned counsel for the petitioner and learned Government Pleader. We have perused the impugned orders, notices and the records. We are of the view, that the present writ petition is liable to be dismissed.

9. The Hon'ble Supreme Court in *Madhuri Patil vs Commr., Tribal Development*, (1994) 6 SCC 241, has given certain guidelines to be followed. Paragraph 13, contains the guidelines to be followed, which reads as under.

13. The admission wrongly gained or appointment wrongly obtained on the basis of false social status certificate necessarily has the effect of depriving the genuine Scheduled Castes or Scheduled Tribes or OBC candidates as enjoined in the Constitution of the benefits conferred on them by the Constitution. The genuine candidates are also denied admission to educational institutions or appointments to office or posts under a State for want of social status certificate. The ineligible or spurious persons who falsely gained entry resort to dilatory tactics and create hurdles in completion of the inquiries by the Scrutiny Committee. It is true that the applications for admission to educational institutions are generally made by a parent, since on that date many a time the student may be a minor. It is the parent or the guardian who may play fraud claiming false status certificate. It is, therefore, necessary that the certificates issued are scrutinised at the earliest and with utmost expedition and promptitude. For that purpose, it is necessary to streamline the procedure for the issuance of social status certificates, their scrutiny and their approval, which may be the following:

1. The application for grant of social status certificate shall be made to the Revenue Sub-Divisional Officer and Deputy Collector or Deputy Commissioner and the certificate shall be issued by such Officer rather than at the Officer, Taluk or Mandal level.



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2. The parent, guardian or the candidate, as the case may be, shall file an affidavit duly sworn and attested by a competent gazetted officer or non-gazetted officer with particulars of castes and sub-castes, tribe, tribal community, parts or groups of tribes or tribal communities, the place from which he originally hails from and other particulars as may be prescribed by the Directorate concerned.

3. Application for verification of the caste certificate by the Scrutiny Committee shall be filed at least six months in advance before seeking admission into educational institution or an appointment to a post.

4. All the State Governments shall constitute a Committee of three officers, namely, (I) an Additional or Joint Secretary or any officer higher in rank of the Director of the department concerned, (II) the Director, Social Welfare/Tribal Welfare/Backward Class Welfare, as the case may be, and (III) in the case of Scheduled Castes another officer who has intimate knowledge in the verification and issuance of the social status certificates. In the case of the Scheduled Tribes, the Research Officer who has intimate knowledge in identifying the tribes, tribal communities, parts of or groups of tribes or tribal communities.

5. Each Directorate should constitute a vigilance cell consisting of Senior Deputy Superintendent of Police in overall charge and such number of Police Inspectors to investigate into the social status claims. The Inspector would go to the local place of residence and original place from which the candidate hails and usually resides or in case of migration to the town or city, the place from which he originally hailed from. The vigilance officer should personally verify and collect all the facts of the social status claimed by the candidate or the



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parent or guardian, as the case may be. He should also examine the school records, birth registration, if any. He should also examine the parent, guardian or the candidate in relation to their caste etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all particulars as envisaged in the pro forma, in particular, of the Scheduled Tribes relating to their peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. by the castes or tribes or tribal communities concerned etc.

6. The Director concerned, on receipt of the report from the vigilance officer if he found the claim for social status to be "not genuine" or 'doubtful' or spurious or falsely or wrongly claimed, the Director concerned should issue show-cause notice supplying a copy of the report of the vigilance officer to the candidate by a registered post with acknowledgement due or through the head of the educational institution concerned in which the candidate is studying or employed. The notice should indicate that the representation or reply, if any, would be made within two weeks from the date of the receipt of the notice and in no case on request not more than 30 days from the date of the receipt of the notice. In case, the candidate seeks for an opportunity of hearing and claims an inquiry to be made in that behalf, the Director on receipt of such representation/reply shall convene the committee and the Joint/Additional Secretary as Chairperson who shall give reasonable opportunity to the candidate/parent/guardian to adduce all evidence in support of their claim. A public notice by beat of drum or any other convenient mode may be published in the village or locality and if any person or association opposes such a claim, an opportunity to adduce evidence may be given to him/it. After giving such opportunity either in person or through



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counsel, the Committee may make such inquiry as it deems expedient and consider the claims vis-à-vis the objections raised by the candidate or opponent and pass an appropriate order with brief reasons in support thereof.

7. In case the report is in favour of the candidate and found to be genuine and true, no further action need be taken except where the report or the particulars given are procured or found to be false or fraudulently obtained and in the latter event the same procedure as is envisaged in para 6 be followed.

8. Notice contemplated in para 6 should be issued to the parents/guardian also in case candidate is minor to appear before the Committee with all evidence in his or their support of the claim for the social status certificates.

9. The inquiry should be completed as expeditiously as possible preferably by day-to-day proceedings within such period not exceeding two months. If after inquiry, the Caste Scrutiny Committee finds the claim to be false or spurious, they should pass an order cancelling the certificate issued and confiscate the same. It should communicate within one month from the date of the conclusion of the proceedings the result of enquiry to the parent/guardian and the applicant.

10. In case of any delay in finalising the proceedings, and in the meanwhile the last date for admission into an educational institution or appointment to an officer post, is getting expired, the candidate be admitted by the Principal or such other authority competent in that behalf or appointed on the basis of the social status certificate already issued or an affidavit duly sworn by the parent/guardian/candidate before the competent officer or non-official and such admission or appointment should be only provisional, subject to the result of the inquiry by the Scrutiny Committee.



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11. The order passed by the Committee shall be final and conclusive only subject to the proceedings under Article 226 of the Constitution.

12. No suit or other proceedings before any other authority should lie.

13. The High Court would dispose of these cases as expeditiously as possible within a period of three months. In case, as per its procedure, the writ petition/miscellaneous petition/matter is disposed of by a Single Judge, then no further appeal would lie against that order to the Division Bench but subject to special leave under Article 136.

14. In case, the certificate obtained or social status claimed is found to be false, the parent/guardian/the candidate should be prosecuted for making false claim. If the prosecution ends in a conviction and sentence of the accused, it could be regarded as an offence involving moral turpitude, disqualification for elective posts or offices under the State or the Union or elections to any local body, legislature or Parliament.

15. As soon as the finding is recorded by the Scrutiny Committee holding that the certificate obtained was false, on its cancellation and confiscation simultaneously, it should be communicated to the educational institution concerned or the appointing authority by registered post with acknowledgement due with a request to cancel the admission or the appointment. The Principal etc. of the educational institution responsible for making the admission or the appointing authority, should cancel the admission/appointment without any further notice to the candidate and debar the candidate from further study or continue in office in a post.

10. In our view, the 2<sup>nd</sup> respondent is competent to issue notice and pass orders. The decision of the Hon'ble Supreme Court has clearly stated that in case of



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migration also the vigilance officer should personally verify and collect all the facts of the social status claimed by the candidate or the parent or guardian, as the case may be. He should also examine the school records, birth registration, if any. He should also examine the parent, guardian or the candidate in relation to their caste etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all particulars as envisaged in the pro forma, in particular, of the Scheduled Tribes relating to their peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. by the castes or tribes or tribal communities concerned etc.

11. In case of migration, the vigilance officer can personally go to the place of origin of the person and cause investigation as held above. Hon'ble Supreme Court has however not stated that enquiry should also be done by an officer from the place of origin when the certificate was obtained from another jurisdiction.

12. In this case, the petitioner had obtained the Community Certificate from the Sub Collector, Ponneri. The petitioner claims to belong to the Sholaga Tribal Community. An enquiry was conducted by the 3<sup>rd</sup> respondent/Deputy Superintendent of Police, Tiruvallur District. The petitioner has replied to the 3<sup>rd</sup> respondent and has stated that his ancestors hail from Tirunelveli District and therefore only the 4<sup>th</sup> respondent was competent to investigate and enquiry.

13. We are of the view, a report can be obtained from the 4<sup>th</sup> respondent for being forwarded to the 2<sup>nd</sup> respondent for completing the Show Cause proceedings. Therefore, the 4<sup>th</sup> respondent shall forward a report within a period of four weeks from the date of receipt of a copy of this order. The petitioner shall co-operate in the enquiry before the 4<sup>th</sup> respondent.

14. The 2<sup>nd</sup> respondent shall complete the proceedings within a period of eight weeks thereafter.

15. The present Writ Petition stands disposed with the above observations and connected WMP is closed.

Sd/-

Assistant Registrar (CS)

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Sub Assistant Registrar



jen/kkd

To

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

2.The Director of Tribal Welfare,  
Chepauk, Chennai - 600 005.

3.The Deputy Superintendent of Police,  
SC/ST Vigilance Cell,  
Tiruvallur District,  
Tiruvallur.

4.The Deputy Superintendent of Police,  
SC/ST Vigilance Cell,  
Tirunelveli District,  
Tirunelveli.

+1cc to Mr.M.Radhakrishnan , Advocate SR.No. 60792

+1 cc to Government Pleader Sr.No. 61310

W.P.No.11576 of 2019

and

W.M.P.No.11819 of 2019

A.SK(28/08/2019)