

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2019

Coram

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

W.P. No. 12053 of 2019
and
W.M.P.No. 12326 of 2019

K.J.Arunmozhi

... Petitioner

-vs-

1.The Tamil Nadu State Level Scrutiny
Committee - II,
Rep. by its Chairman and Secretary,
Adi Dravidar and Tribal Welfare
Department,
Namakkal Kavingar Maligai,
Secretariat, Chennai - 9.

2.The General Manager,
Heavy Alloy Penetrator Project,
Government of India,
Trichy.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of certiorari by calling for the records of the first respondent in his proceedings No.16665/CV-4(2)/2013-22 dated 16.04.2019 and quash the same.

For Petitioner : Mr.V.Vijayashankar

For Respondents : Mr.Akil Akbar Ali,
: Govt. Advocate for R1
Mr.Venkataswamy Babu for R2

ORDER

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

The community certificate issued to the petitioner as Scheduled Tribe - Konda Reddi was cancelled by the impugned order. Challenging the same, the present writ petition has been filed.

2. This is the second round of litigation. On the earlier round, this Court in W.P.No. 17741 of 2016 dated 18.04.2017 was pleased to pass the following order:-

"12. The State Level Scrutiny Committee is directed to supply a copy of the Vigilance Report and the statements of witnesses examined by the Vigilance Cell. In case, those statements are against the claim made by the petitioner, necessarily, he should be given liberty to cross-examine the witnesses, by summoning them in the office of the Scrutiny Committee. Since the matter is pending for years together, every effort should be taken by the State Level Scrutiny Committee to conclude the proceedings. The petitioner should be given reasonable time to appear before the Committee and to cross-examine the witnesses, in case, the Committee is relying on the statements given by the witnesses. The petitioner is directed to cooperate with the Scrutiny Committee for an early disposal of the matter. In case, it is made out that the petitioner is prolonging the matter with a view to evade the disciplinary proceedings, it is open to the Scrutiny Committee to take a decision on the basis of the available materials. There shall be a further direction to the State Level Scrutiny Committee to complete the verification process as expeditiously as possible, and in any case, within a period of three months from the date of receipt of a copy of this order."

3. Thereafter, the present impugned order was passed after considering the materials available on record and obviously without hearing the petitioner who made a request on the date of hearing - 11.04.2019 seeking certain documents including the report of Anthropologist. The impugned order was passed obviously not based upon any statement made by the witnesses. Therefore, there is no question of non-compliance of the order passed by the Division Bench in that regard.

4. However, we find considerable force in the submission made by the learned counsel for the petitioner that inasmuch as the order impugned has relied upon the report of the Revenue Divisional Officer and that of the Anthropologist, the principles of natural justice would certainly require that they ought to have been furnished. A perusal of the impugned order would show that not only it has been passed ex-parte but based upon those two documents, which have not been furnished, admittedly. We also find that the petitioner did appear on 11.04.2019 and sought for documents. We have perused the original signature and seal made by the office of the first respondent dated 11.04.2019. Though the first respondent has indicated that only a letter has been given, the position remains the same.

5. Law is quite settled that any reliance made in the order involving civil consequence with respect to the documents referred are certainly required to be given. In the case on hand, neither the report of the Revenue Divisional Officer nor that of the Anthropologist is furnished.

6. Thus, we are of the view that the impugned order cannot be sustained in the eye of law. Accordingly, the same stands set aside and the matter stands remitted to the first respondent to reconsider the issue afresh after issuing notice to the petitioner. While issuing such notice, the first respondent should enclose a copy of the report of the Revenue Divisional Officer and that of the Anthropologist. On receipt of the same, the petitioner is duty bound to appear without seeking any further time for enquiry. Needless to state that after the conclusion of the enquiry, a reasoned order will have to be passed by the first respondent including the consideration of relevant materials and the documents relied upon by the petitioner. The entire exercise will have to be done within a period of three months from the date of receipt of a copy of this order.

7. In view of the above, the writ petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS I)

/true copy/
Sub Asst. Registrar

mmi/ssm

To

1.The Tamil Nadu State Level Scrutiny
Committee - II,
Rep. by its Chairman and Secretary,
Adi Dravidar and Tribal Welfare
Department,
Namakkal Kavingar Maligai,
Secretariat, Chennai - 9.

2.The General Manager,
Heavy Alloy Penetrator Project,
Government of India,
Trichy.

+1 cc to Mr.V.Vijay Shankar Counsel for petitioner
sr 90586

+1 cc to Government Pleader sr90679

+1 cc to Mr.Venkatasamy Advocate sr90123

W.P. No. 12053 of 2019

nr(co)
aa12/12/2019