

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on: 16.07.2019

Orders Pronounced on : 02.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.15626 and 15631 of 2019
and
W.M.P.Nos.15521 and 15524 of 2019

K.Nagarajan .. Petitioner in W.P.No.15626 of 2019

N.Tamilarasan .. Petitioner in W.P.No.15631 of 2019

Vs.

1. The District Collector,
Salem District,
Salem

2. The Project Officer,
Project Office,
Tribal Welfare,
No.305, Office of the Salem District Collector,
Salem.

.. Respondents in both the Writ Petitions

Writ Petition No.15626 of 2019 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records in pursuant to the enquiry notice in Na.Ka.No.1506/2018/ThiA, dated 31.05.2019 on the file of the first respondent and quash the same.

Writ Petition No.15631 of 2019 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records in pursuant to the enquiry notice in Na.Ka.No.383/2018/ThiA, dated 31.05.2019 on the file of the first respondent and quash the same.

For petitioner : Mr.V.Elangovan

For respondents : Ms.Narmadha Sampath,

Additional Advocate General

assisted by Mr.K.S.Suresh, Govt. Advocate

COMMON ORDER

R.SUBBIAH, J

The petitioner-K.Nagarajan has filed W.P.No.15626 of 2019, praying for issuance of a Writ of Certiorari to call for the records in pursuant to the enquiry notice in Na.Ka.No.1506/2018/ThiA, dated 31.05.2019 on the file of the first respondent and quash the same.

2. The petitioner-N.Tamilarasan has filed W.P.No.15631 of 2019, praying for issuance of a Writ of Certiorari to call for the records in pursuant to the enquiry notice in Na.Ka.No.383/2018/ThiA, dated 31.05.2019 on the file of the first respondent and quash the same.

3. It is the case of the petitioners that they belong to Konda Reddis Community, which is classified as Scheduled Tribe Community. They obtained Community Certificates, dated 23.07.1975 and 24.04.1984, respectively, from the Tahsildar, Mettur, who was the competent authority at the relevant point of time to issue the Community Certificates. The said Community Certificates were issued to the petitioners only after due enquiry and the abovesaid Certificates are still valid and not cancelled by any authority. In the case of the petitioner in W.P.No.15626 of 2019, he joined as Elementary School Teacher in the year 1973 under General Category and retired from service on 31.07.2009. In the case of the petitioner in W.P.No.15631 of 2019, in his School Certificate, the community is entered as Konda Reddis Community.

4. It is further stated by the petitioners that they preferred an application to the Revenue Divisional Officer, Mettur on 22.08.2013, requesting to issue Community Certificate for their children. Thereafter, the Revenue Authority conducted a discreet enquiry and passed a final order on 02.12.2015 rejecting the petitioners' applications stating that they do not belong to Konda Reddis Community, as against which, originally, the petitioner-Tamilarasan preferred a Writ Petition in W.P.No.27642 of 2017, in which, this Court passed orders on 30.10.2017, directing as follows:

"In the result, we allow the writ petition and set aside the impugned order in proceedings in Mu.Mu.No.3357/2015(T), dated 02.12.2015 passed by the respondent, with a direction to the respondent to issue community certificate to the petitioner's son, namely Minor T.K.Saashwat, to the effect that he belongs to Kondareddis (ST)

Community. Such exercise shall be undertaken by the respondent within a period of four weeks from the receipt of a copy of this order. No costs."

5. Since the above said order of this Court was not complied with, the petitioner-Tamilarasan preferred Contempt Petition in Cont.P.No.818 of 2018. Instead of issuing Community Certificate, the Revenue Divisional Officer, Mettur filed a Review Application in Rev.Pet.No.30 of 2018. This Court passed common order on 04.02.2019 in the said Contempt Petition and in the Review Petition filed by the Revenue Divisional Officer (RDO), Mettur Taluk, Salem District, directing the RDO, Mettur to issue Community Certificate and report the same to this Court on 07.02.2019. Thereafter, the RDO, Mettur issued Community Certificate to the petitioners' children/grand children on 06.02.2009. Hence, the said Contempt Petition and the Review Petition were closed on 07.02.2019.

6. It is the further stand of the petitioners in the affidavits filed in support of the Writ Petitions that, pending the said Contempt Petition, the first respondent issued notice to the petitioners on 02.02.2019 to appear for the enquiry to be held on 11.02.2019. As the petitioners have not appeared for the enquiry on 11.02.2019, again, the first respondent issued notice on 08.05.2019 to appear for the enquiry to be held on 28.05.2019. As the petitioners could not appear on 28.05.2019, they sent letter to the respondents requesting to grant two months' time. On 31.05.2019, the first respondent issued the impugned notices to the petitioners to appear for the enquiry to be held on 11.06.2019. Challenging the said notices, dated 31.05.2019, the petitioners have filed the present Writ Petitions.

7. When the Writ Petitions are taken up for hearing, the learned counsel for the petitioners submitted that the respondent(s) had no authority to conduct enquiry in respect of the genuineness/cancellation of the Community Certificates (ST) already issued to them. If at all there is any doubt with regard to the genuineness of the Community Certificates already issued to the petitioners, it is only the State Level Scrutiny Committee which has power and which is the competent authority to deal with the same. The learned counsel for the petitioners further submitted that the first respondent has no jurisdiction to enquire into the veracity of the Community Certificates already issued to the petitioners which pertains to Scheduled Tribe community. In support of his submissions, the learned counsel for the petitioners relied on the following judgments:

(i) W.P.(MD).No.16657 of 2012, dated 19.12.2012 (Madurai Bench of this Court) (K.Karuppasamy Vs. District Level Vigilance Committee);

(ii) 2005 (1) MLJ 72 (The New India Assurance Company Limited Vs. Venkataraman);

(iii) 1994 (6) SCC 241 = AIR 1995 SC 94 (Kumari Madhuri Patil Vs. Additional Commissioner);

(iv) 2007 (12) SCC 796 = 2008 (1) MLJ 125 (SC) (G.M., Indian Bank Vs. R.Rani and others);

(v) 2007 (12) SCC 800 = 2001 (4) Supreme 461 (Baswant Vs. State of Maharashtra and others), and

(vi) W.P.(MD).No.9686 of 2018, etc. batch, (Madurai Bench of this Court), dated 08.03.2019 (S.Sundararaju Vs. Additional Director General of Police and others).

Hence, the learned counsel for the petitioners prayed for quashing the impugned notices, dated 31.05.2019.

8. In reply, the learned Additional Advocate General submitted that since there arose a doubt with regard to the Community Certificates already issued to the petitioners, and to ascertain as to whether they are genuine ones or bogus, the impugned notices had been issued. Though the social/communal status of the petitioners had to be dealt with only by the State Level Scrutiny Committee, the question as to whether the Community Certificates of the petitioners themselves are bogus or genuine, can be found out by the respondents only by conducting enquiry. Hence, the respondents have every authority and are competent to conduct the enquiry. In support of her submissions, the learned Additional Advocate General appearing for the respondents relied on a decision of the Supreme Court reported in 1994 (1) SCC 1 (S.P.Chengalvaraya Naidu Vs. Jagannath).

9. Heard both sides and perused the materials available on record.

10. The factual aspects of the said judgments relied on by the learned counsel for the petitioners and also the judgment relied on by the learned Additional Advocate General appearing for the respondents, cannot be made applicable to the case on hand, as they are distinguishable to the facts of the present Writ Petition.

11. The only question that has to be decided in these Writ Petitions is as to whether the Writ Petitions could at all be entertained, as the petitioners have only received enquiry notices.

12. Be that as it may. The impugned notices are only enquiry-notices and at this stage, this Court cannot delve into the matter to quash the impugned notices. The petitioners can

very well appear before the respondent(s) and put forth their contentions. Thereafter, if the matter is referred to the State Level Scrutiny Committee, the petitioners can also appear before the said Committee. Therefore, we are of the opinion that the Writ Petitions are premature in nature and are liable to be dismissed.

13. Moreover, it is the contention of the learned Additional Advocate General appearing for the respondents that the respondents are going to conduct enquiry to find out as to whether the Community Certificates of the petitioners, are bogus or genuine ones and the respondent(s) is/are not going to deal with the communal/social status of the petitioners by cancelling the Community Certificate. Further, whether the Community Certificate is bogus or genuine, can be found out only by conducting enquiry by the State Level Scrutiny Committee.

14. Hence, for the reasons stated above, both the Writ Petitions are dismissed. No costs. Consequently, W.M.Ps. are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Salem District,
Salem
2. The Project Officer,
Project Office,
Tribal Welfare,
No.305, Office of the Salem District Collector,
Salem.

+1cc to Mr.S.Doraisamy, Advocate, S.R.No. 66611

W.P.Nos.15626 and 15631 of 2019

VSN II(CO)
GN(27/08/2019)