

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CORAM

DATED 30.09.2019

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.23168 OF 2019 &
Crl.M.P.No.13230 of 2019

E. Kumar

.. Petitioner

Vs

1. The Director,
Directorate of Vigilance and
Anti- Corruption,
Government of Tamilnadu,
No.293, MKN Road, Alandur,
Chennai - 16.
2. State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare,
Department,
Government of Tamilnadu,
Chennai 600 009.
3. The Joint Director,
Central Bureau Investigation(CBI),
Chennai Zone, College Road,
Chennai-6.
(R3 is deleted as per order made
in Crl.Op.No.23168 of 2019, dated
13.09.2019)

..Respondents

Prayer: Petition filed under Section 482 of Cr.P.C., praying to direct the 3rd respondent to register the complaint preferred by the petitioner dated 21.09.2018 against the 2nd respondent.

For Petitioner : Mr. S. Sairaman

For Respondents : Mr.K.Prabakar,
Addl. Public Prosecutor for
R1 and R2

ORDER

The petitioner is a General Secretary of the Adhi Dravidar Tribal Welfare Association. He submits that he belongs to "Malaikkuravan" Schedule Tribe Community and the Revenue Divisional Officers, who are competent authorities to issue community certificate to Schedule Tribe people are demanding bribe to issue community certificate to them, even after production of several records such as school records, sale deed, community certificate of the relatives, Government orders, community certificate of parents etc. The genuine schedule tribe community members were unable to get the community certificate either from their own native, or from other migrated village because the jurisdictional Revenue Divisional officers, who are competent authority to issue community certificate to the Schedule Tribe people refuse to accept the genuine documents for issuance of community certificate. On the other hand, for non tribal community people, bogus community certificates are being issued against the guidelines issued in Kumari Madhuri Patil's case, he had also sent representation and letters dated 20.09.2017, 18.09.2018, 25.11.2011 and 1.10.2013.

2. It was also brought to the notice of the authorities that the Scheduled Tribe in the name of 'Malayali', community certificates are being issued in quick without proper verification and wrongful manner without following the guidelines laid in the following Government orders viz., i. GO.2D (18) dated 01.04.1997, ii. GO Ms.No.111, dated 06.07.2005, iii. GO 2(1) 108 dated 12.09.2007, iv. GO MS.No.106 dated 15.10.2012. The holders of the Malayali Schedule Tribe Community certificates are not the genuine Schedule Tribe people is only illustrative and by obtaining the fake community certificate, they are depriving the rights of the genuine tribal persons the benefit of reservation granted, thereby, genuine Schedule Tribe people who are in actual need of the same were denied the benefits since the benefits are given based on false community certificate.

3. In his petition, the petitioner had listed out the persons whose Malayali certificates were confirmed without due verification of the land documents prior to 1950 and the school records and the same were confirmed only based upon the report of the Vigilance DSP against the guidelines to be followed as per Government Orders and Kumari Madhuri Patil's case.

i. P.Chinnathambi, S/o.Ponnusamy, vide SLSC proceedings No.11554/CV-4(2) 2012 -4 dated 24.06.2016;

ii.A.prakash, son of Allimuthu, vide SLSC proceedings No.8162/CV-4(2) 2010-12 dated 24.06.2016

iii.D. Ramalingam, Son of Devarasu, vide SLSC proceedings No.18789/CV-4(2) 2014-3, dated 24.06.2016.

iv.A.Ilayarajan, son of Annamalai, vide SLSC proceedings No.4105/CV-4(2) 2014-3 dated 24.06.2016.

v. P.Velmurugan, son of Poochi, vide SLSC proceedings No.15931/CV-4(2) 22014-3 dated 24.06.2016.

vi.D.Subramanian, son of S.Duraisamy, vide SLSC proceedings No.7757/CV-4(2) 2015-6 daated 24.06.2016

vii.V.Perumal, son of Vellaiyan, vide SLSC proceedings No.17168/CV-4(2) 2015-5 dated 29.07.2016;

viii.P. Babu, son of R.Periasamy, vide SLSC proceedings, No.17689/CV-4(2) 2012-7 dated 29.11.2016

The above persons are enjoying the benefits of schedule tribe community by using bogus community certificates.

4. The learned Additional Public Prosecutor submits that on the representation of the petitioner, factual verification was conducted. He also produced status report submitted by the first respondent before this Court, wherein, in paragraph 5, it has been mentioned as follows;

' 5. I respectfully submit that the factual verification was conducted to ensure the authenticity of the petitioner as well as genuineness of the content of the petition, as per the guidelines issued in the G.O.Ms.No.173 P&AR (N) Dept., dated 19.12.2018. After obtaining the factual verification report, a letter has been addressed to the competent authority i.e., the Additional Chief Secretary to Government/ Commissioner of Revenue Administration, Disaster Management and Mitigation Department, Secretariat, Chennai through Vigilance Commissioner, vide Petition No.8680/2019/REV/VL dated 03.09.2019 for prior approval to initiate Preliminary Enquiry U/s.17(A)(1) of Prevention of Corruption (Amendment) Act 2018.'

5. He further submits that once the approval is obtained, preliminary enquiry under section 17A(1) of Prevention of Corruption Act would be conducted and it is also submitted that as per the Prevention of Corruption Act, three months time limit is given for obtaining approval which is extendable by further period of one month for reasons to be recorded.

6. As could be seen from the status report, the 1st respondent had initiated action on the complaint of the petitioner and the enquiry and investigation to proceed on obtaining approval from the concerned authority.

7. Recording the submission of the learned counsel for the learned Additional Public Prosecutor, the petition is closed. Consequently, connected Crl.M.P.No.13230 of 2019 is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

- 1 The Director,
Directorate of Vigilance and
Anti- Corruption,
Government of Tamilnadu,
No.293, MKN Road, Alandur,
Chennai - 16.
2. State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare,
Department,
Government of Tamilnadu,
Chennai 600 009.
3. The Public Prosecutor,
High Court, Madras.

+2cc to Mr. S. Sairaman, Advocate sr.83879, 83742

CRL.O.P.NO.23168 OF 2019

pm(co)
nr 21/01/2020

4/4