

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 02.07.2019

Pronounced on : 17.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

and

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.27425 of 2018

K.Mahalingam

.. 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,
Chennai 600 005.
- 3.The Deputy Superintendent of Police,
SC/ST Vigilance Cell, Chennai Region,
2nd Floor, Singaravelar Maaligai,
Rajaji Salai, Chennai 600 001.

.. Respondents

PRAYER . : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in the order bearing No.Na.Ka.No.PaMe/Aa2/2792/2016 dated 31.07.2018 passed by the respondent No.2 and quashing the same and directing respondent No.1 committee to declare that the petitioner belongs to Kurumans Schedule Tribe.

For Petitioner : Mr.M.Radhakrishnan

For Respondents : Mr.V.Shanmuga Sundar
Special Government Pleader.

O R D E R

C.SARAVANAN, J.

The petitioner has filed the present writ petition seeking to quash the notice dated 31.07.2018 bearing No.Na.Ka.No.Pra Me/Aa2/2792/2016 issued by the 2nd respondent and for consequential direction to the 1st respondent to declare that the petitioner belongs to Kurumans Scheduled Tribe.

2. The petitioner had obtained a community certificate dated 28.06.1977 from the Tahsildar, by declaring that he belongs to Kurumans Scheduled Tribe. The petitioner's employer directed the petitioner to obtain a fresh community certificate. This was challenged in W.P.No.20838 of 2015.

3. Thereafter, the 1st respondent scrutinized the community certificate of the petitioner and recommended for cancellation of the certificate issued to the petitioner on 28.06.1977.

4. Aggrieved by the same, the petitioner has filed another writ petition in W.P.No.28530/2015. The petitioner's case was referred to the Vigilance Cell by the Government vide letter dated 25.11.2015 to give a detailed report to the 1st respondent.

5. Thereafter, the Vigilance Cell also submitted a report on 29.06.2018. Pursuant to the report of the Vigilance Cell, the 2nd respondent had issued a show cause notice dated 31.07.2018 and called upon the petitioner to give an explanation to the 2nd respondent. The petitioner has also given his reply to the 1st respondent/State Level Scrutiny Committee on 15.09.2018.

6. The learned counsel for the petitioner submits that the petitioner's relative has already been confirmed to be a person belonging to Kurumans Schedule Tribe, pursuant to the order in W.P.No.21818 of 2008 and therefore certificate should be granted to the petitioner. The 1st respondent has filed the detailed counter.

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7. We have considered the rival submissions of the petitioner as well as the respondents.

8. The enquiry was taken up pursuant to the order dated 16.06.2017 passed in W.P.No.15212 of 2017. The relevant portion of the said order reads as under :

"The State Level Scrutiny Committee to dispose of the matter, pursuant to the order dated 1st December 2015 in W.P.No.28530 of 2015, as expeditiously as possible, and in any case, within a period of two months from the date of receipt of a copy of this order. i.e.before 20.09.2017."

9. Without awaiting for the outcome in the said show cause proceeding the petitioner has filed the present writ petition seeking to quash the notice dated 31.07.2018 and for consequential direction to the 1st respondent to declare the petitioner as one who belonging to Kurumans Scheduled Tribe. We are therefore inclined to dismiss the petition.

10. The prayer of the petitioner that this court should declare the petitioner as a person belonging to Kurumans scheduled tribe cannot be considered as the power of this court is limited under Article 226 of the Constitution of India. There is also no material for this court to give such direction.

11. The petitioner has to participate in the show cause proceeding by filing a reply. The petitioner cannot bypass show cause proceeding merely because one of his relative has obtained a certificate. If the certificate of his relative is genuine and not obtained by fraudulent manner and if the petitioner is found eligible to the community certificate certainly petitioner will receive a community certificate from the concerned authorities.

12. The 2nd respondent is directed to pass a speaking order in the show cause proceeding within a period of four weeks thereafter. The petitioner shall therefore participate in show cause proceedings and give his reply within a period of two weeks from the date of receipt of this order.

13. The present writ petition is accordingly dismissed with the above observations. No cost.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kkd

To

1. The Chairman &
Secretary to Government
State Level Scrutiny Committee
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai 600 009.
- 2.The Director of Tribal Welfare,
Chennai 600 005.
- 3.The Deputy Superintendent of Police,
SC/ST Vigilance Cell, Chennai Region,
2nd Floor, Singaravelar Maaligai,
Rajaji Salai, Chennai 600 001.

+1cc to Mr.M.Radhakrishnan, Advocate sr.60791
+1cc to Government Pleader sr.61307

W.P.No.27425 of 2018

mp(co)

nr 16/09/2019

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