



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

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W.P.(MD).No.8797 of 2014  
and  
M.P.(MD)Nos.1 and 2 of 2014  
and  
W.M.P.(MD)No.18624 of 2015

Vijaya Nirmala

... Petitioner

-Vs-

1.Senior Divisional Manager,  
Life Insurance Corporation of India,  
Divisional Office,  
Bridges Station Road,  
Sellur, Madurai-625 002.

2.The State Level Caste Scrutiny Committee,  
Rep. by its Chairman,  
The Secretary to Government,  
Adi Dravidar and Tribal Welfare Department,  
Secretariat, Chennai.

... Respondents

[2<sup>nd</sup> respondent is impleaded vide order  
dated 01.08.2019 in W.M.P.(MD)No.13582 of 2019]

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the proceedings of the respondent dated 27.05.2014 and quash the same.

|                 |                                                                                                                |
|-----------------|----------------------------------------------------------------------------------------------------------------|
| For Petitioner  | : Mr.R.Murali                                                                                                  |
| For Respondents | : Mr.C.Godwin (for R-1)<br>Mr.K.Mu.Muthu<br>Additional Government Pleader<br>(for R-2) (Impleading Respondent) |

### ORDER

The charge sheet-cum-show cause notice issued by the first respondent in proceeding dated 27.05.2014 is sought to be quashed in the present writ petition.

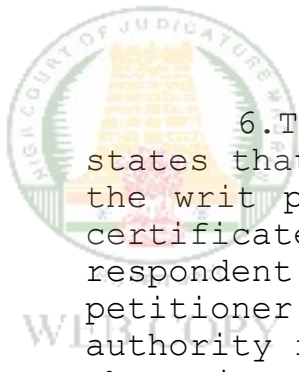


2.The writ petitioner claims that she belongs to Hindu Kattunayaken Schedule Tribe Community. She was originally appointed as Clerk in the first respondent / Corporation during the year 1986 and subsequently absorbed as permanent Clerk in the year 1987. The writ petitioner was directed to produce the Community Certificate in the prescribed format given by the first respondent. Accordingly, the writ petitioner had produced the Community Certificate in the prescribed format. The first respondent verified the community status through the Revenue Officials and the District Collector, Madurai in his proceeding, dated 02.09.1992, had confirmed the community status of the writ petitioner by stating that she belongs to Kattunayakan Community, which is Schedule Tribe. In spite of the same, the first respondent has reopened the issue and started questioning the Community Certificate produced by the writ petitioner.

3.The first respondent sent a complaint to the District Crime Branch, Madurai and FIR No.69 of 2000 was filed and the said criminal case registered against the writ petitioner, is now pending on the file of the learned Judicial Magistrate No.I, Madurai in C.C.No.194 of 2010. This apart, the first respondent has referred the matter to the State Level Caste Scrutiny Committee / second respondent herein, for the purpose of ascertaining the community status of the writ petitioner, whether she belongs to Kattunayakan Community, which is a Schedule Tribe Community or not. The said application submitted by the first respondent is also pending before the State Level Caste Scrutiny Committee / second respondent. Under these circumstances, the first respondent issued the charge sheet-cum-show cause notice, directing the writ petitioner to submit an explanation, in respect of the allegation that she had submitted a bogus Community Certificate, dated 14.12.1986, which was issued by the Tahsildar, Usilampatti.

4.The learned counsel appearing on behalf of the writ petitioner states that earlier an enquiry was conducted and the said enquiry was closed. This apart, the criminal case registered against the petitioner, is also pending. Further, the writ petitioner has established that she belongs to Schedule Tribe Community and no further enquiry is to be conducted in this regard.

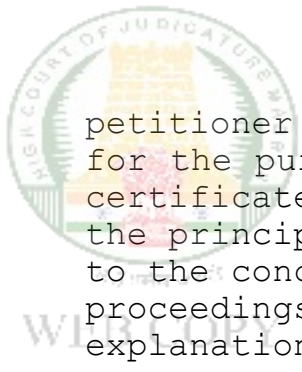
5.The learned counsel appearing on behalf of the first respondent opposed the contentions by stating that departmental disciplinary proceedings are initiated in respect of the charge that the writ petitioner had submitted a fake Community Certificate, dated 14.12.1986, which was issued by the Tahsildar, Usilampatti. On verification by the first respondent, no such certificate was issued by the Tahsildar, Usilampatti and therefore, an enquiry was contemplated and the charge sheet-cum-show cause notice was issued. Thus, there is no infirmity in respect of the impugned order passed.



6.The learned counsel for the first respondent further states that more than one such Community Certificate was produced by the writ petitioner and it is further stated that many other such certificates were also submitted by the writ petitioner to the first respondent. Thus, all these certificates are produced by the writ petitioner and its genuinity is to be ascertained by the competent authority for the purpose of taking a final decision in this regard. The writ petitioner is going on submitting her certificates and on account of the same, the first respondent is unable to conclude the proceedings.

7.Considering the arguments of the respective learned counsel appearing on behalf of either of the parties, this Court is of the considered opinion that once an allegation of the genuinity of the Community Certificate is raised, then the competent authorities are bound to conduct a detailed enquiry and arrive at a conclusion. The writ petitioner was appointed on the ground that she belongs to Kattunayakkan Community of Schedule Tribe. Thus, the certificate produced by the writ petitioner in this regard must be verified and the genuinity of such certificates is also to be ascertained. During the process of verification, the first respondent came to understand that the certificate produced by the writ petitioner, dated 14.12.1986, was a bogus one. Thus, they have instituted disciplinary proceedings and simultaneously, registered a police complaint and further sent a letter to the State Level Caste Scrutiny Committee to decide the status of the writ petitioner, with reference to the community.

8.Even in the impugned order states that it is a charge sheet-cum-show cause notice, no writ can be entertained against the show cause notice, in a routine manner. On receipt of such show cause notice, the employee has to submit his explanations / objections along with the documents, if any. Contrarily, the grounds raised on merits, cannot be adjudicated in a writ proceeding. A writ against the show cause notice can be entertained only if the notice was issued by an incompetent authority having no jurisdiction or any allegations of *mala fide* are raised or if the same is issued in violation of the statutory rules in force. Thus, the person against whom such a show cause notice is issued, must defend his case by submitting his explanations / objections and the documents, if any available. Even in case of allegations of raising are *mala fides*, the authorities, whom such allegations raised, are to be impleaded as party respondent in his personal capacity, in the writ proceedings. In the absence of any one of the legal grounds, no writ petition can be initiated against a show-cause notice and judicial reviews against such show cause notice, are undoubtedly limited. The disputed facts cannot be adjudicated in a writ proceeding. All such disputed issues are to be adjudicated by the competent authority by verifying the original records and by adducing the evidences, if required. Under these circumstances, the



petitioner is bound to avail the opportunity to be provided to her for the purpose of establishing her community status as well as the certificate produced by her at the time of appointment. This being the principle to be followed, this Court has no hesitation in coming to the conclusion that the writ petitioner has to participate in the proceedings by submitting her documents and by submitting the explanation / objections, if any, along with the documents.

9.As far as the criminal case registered against the writ petitioner is concerned, the petitioner has to defend the case in the manner known to law. So also, with reference to the complaint filed before the State Level Caste Scrutiny Committee, the writ petitioner as well as the first respondent have to participate and adjudicate their stands before the State Level Caste Scrutiny Committee for the purpose of ascertaining the community status of the writ petitioner as a Schedule Tribe Community and she belongs to Kattunayakkan Community.

10.With reference to the present writ petition is concerned, the charge sheet-cum-show cause notice was issued, based on the fact that the writ petitioner has submitted a bogus Community Certificate at the time of appointment. The respondents have raised certain allegations against the writ petitioner. Under these circumstances, the writ petitioner has to defend her case by availing an opportunity to be provided by the competent authorities and establish her innocence or otherwise, by producing documents or by adducing evidences.

11.The respondents are also bound to provide opportunity to the writ petitioner to submit her explanation / objections as well as the documents, and if necessary, to adduce evidence. This being the factum, the writ petitioner is directed to co-operate for the enquiry and the respondents are directed to expedite the enquiry and conclude the same and pass orders as expeditiously as possible.

12.In this regard, the respondents are bound to provide all reasonable opportunities to the writ petitioner enabling her to submit her explanation / objections. It is made clear that the documents relied on by the first respondent also to be furnished to the writ petitioner enabling her to take her defence during the enquiry. The enquiry is to be conducted by the respondents and accordingly a final decision is to be taken by following the procedures.

13.The State Level Caste Scrutiny Committee / second respondent is directed to consider the applications submitted by the first respondent as well as the explanation / objections, if any, to be filed by the writ petitioner, conduct an enquiry and pass orders as expeditiously as possible, in view of the fact that the issue in relation to the community status of the writ petitioner, is pending for long years.



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W.P.(MD).No.8797 of 2014

14. With these directions, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CO)

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Sub Assistant Registrar

To

The Chairman,  
The State Level Caste Scrutiny Committee,  
Adi Dravidar and Tribal Welfare Department,  
Secretariat, Chennai.

+1 CC to M/s.C.GODWIN, Advocate ( SR-79261[F] dated 01/08/2019 )

+1 CC to M/s.M.SURESH KUMAR, Advocate ( SR-79319[F] dated 02/08/2019 )

W.P. (MD) .No.8797 of 2014  
01.08.2019

sj i  
JM/30.08.2019/5P/4C