



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

and

THE HONOURABLE MRS. JUSTICE R. THARANI

W.P (MD) No. 23987 of 2019

and

W.M.P. (MD) No. 20596 of 2019

N. Singaravelan

.. Petitioner

Vs.

1. The Principal Secretary,
Department of Adhi Dravida and
Scheduled Welfare Department,
Government of Tamil Nadu,
Fort St. George,
Chennai-600 009.

2. The District Collector,
Tirunelveli District,
Tirunelveli-627 009.

3. The Deputy Superintendent of Police,
Social Justice and Human Rights & Vigilance Cell,
Tirunelveli-627 002.

4. The Sub Collector,
Cheranmahadevi-627 414,
Tirunelveli District.

5. The Tahsildar,
Nanguneri Taluk,
Nanguneri-627 108,
Tirunelveli District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct forbear the respondents from in any way proceeding with any enquiry relating to the communal status of the petitioner as the Hindu Sholoaga Community under the community certificate No. 797534, dated 04.08.1989 issued by the fifth respondent herein.



For Petitioner : Mr.S.Subbiah
Senior Counsel for Ms.P.Jessi Jeeva Priya
For Respondents : Mr.A.Muthukaruppan
Additional Government Pleader

WEB COPY

ORDER

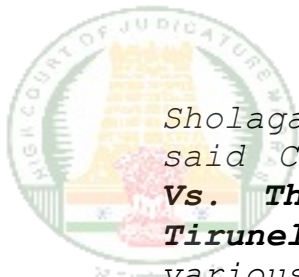
[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.S.Subbiah, learned senior counsel for Ms.P.Jessi Jeeva Priya, learned counsel appearing for the petitioner and Mr.A.Muthukaruppan, learned Additional Government Pleader appearing for the respondents.

2. This writ petition has been filed to forebear the respondents from proceeding further with another enquiry relating to the communal status of the petitioner, which has already been satisfied and certificate has also been issued by the fifth respondent on 04.08.1989.

3. We find that on an earlier occasion, the genuineness of the communal status of the petitioner was verified and it was held that the petitioner did not belong to Hindu Sholaga Community, which is notified as Scheduled Tribes Community. Pursuant to such verification, two members Committee constituted for verification of the communal status at District level had passed an order on 27.08.2004 cancelling the community certificate issued to the petitioner. Aggrieved by such order, the petitioner filed an appeal before the State Level Scrutiny committee, who by order dated 02.05.2007 remitted the matter back to the District Level Vigilance Committee for further verification. Since no further action was initiated, by the District Level Vigilance Committee, the petitioner filed W.P.(MD)No.8253 of 2007 challenging the order passed by the District Level Vigilance Committee, dated 27.08.2004. The said writ petition was allowed by the Hon'ble Division Bench of this Court by order dated 27.11.2009. The operative portion of the order reads as follows:-

"7. As of now, there is no dispute that the father of the petitioner belongs to Hindu Sholaga Community and to that effect, a community certificate has been duly issued in his favour. The said certificate was never cancelled during the life time of the father of the petitioner. There is also no dispute that the said certificate in favour of his father was issued on 25.03.1968 and he died on 18.09.1989. Apart from that, the sister of the petitioner Mrs.N.Rajeswari also has got a certificate certifying that she belongs to Hindu



Sholaga Community, which is a Scheduled Tribe. Though the said Certificate was cancelled, this Court in **N.Rajeswari Vs. The District Collector, Nellai Kattabomman District, Tirunelveli** reported in 2000 (1) MLJ 267, after verifying various records, has emphatically held that she belongs to Hindu Sholaga Community. Therefore, there will be no purpose in verifying further to ascertain the very same fact. When this Court once has declared that the sister of the petitioner belongs to Hindu Sholaga Community, and when there is no dispute that the petitioner was born to the same parents, the further exercise to verify the community of the petitioner would be only wasteful. As held by this Court in N.Rajeswari's case, cited supra, and for the very same reasons contained in the said Order, the petitioner is also entitled for a community certificate showing that she belongs to the Hindu Sholaga Community, which is a Scheduled Tribe.

8. In view of the above, the writ petition is allowed and the impugned order of the State Level Scrutiny Committee is set aside. Consequently, the order of the District Level Vigilance Committee is also set aside. The Community Certificate of the petitioner certifying that he belongs to Hindu Sholaga Community, which is a Scheduled Tribe, is restored. No costs. Consequently, connected miscellaneous petitions are closed."

4. From the above order, it is evidently clear that the communal status of the petitioner's sister namely, N.Rajeswari was also tested for its correctness and this Court by the judgment in the case of **N.Rajeswari Vs. The District Collector, Nellai Kattambomman District, Tirunelveli** [2000 (1) MLJ 267] held that she belongs to Hindu Sholaga community.

5. Referring to the said decision, the Hon'ble Division Bench allowed the writ petition setting aside the order passed by the State Level Scrutiny Committee as well as the District Level Vigilance Committee and restored the community certificate issued to the petitioner certifying that he belongs to Hindu Sholaga Community, which is notified as Scheduled Tribes Community.

6. In spite of the order passed by the Hon'ble Division Bench of this Court, the petitioner was not given appointment to the post of Village Administrative Officer, considering his communal status, for which post, he had participated in the recruitment process and had written the examination held on 20.02.2011. Since there was no action initiated by the Tamil Nadu Public Service Commission (in short TNPSC), the petitioner filed writ petition in W.P.(MD)No.18382 of 2012 seeking direction to TNPSC to accept the petitioner's application and appoint him to the post of Village Administrative Officer based on the results of the written examination dated 20.02.2011 under the category of the Scheduled Tribes. The said



writ petition was disposed of by an order dated 20.07.2012 by giving direction to TNPSC to consider the petitioner's representation, dated 03.07.2012 taking note of the order passed by the Hon'ble Division Bench. Pursuant to which, TNPSC has selected the petitioner and appointed him as Village Administrative Officer by an order, dated 11.09.2012 allotting him to Tirunelveli District. Pursuant thereto, the petitioner has joined in the said post on 25.10.2012 (FN) in Tiruvaranganeri and his service has also been regularized on the very same date. The petitioner's probation was declared on 24.10.2014. The petitioner is now aggrieved by an action initiated by the fourth respondent pursuant to a urgent memo, dated 10.07.2019 directing the fifth respondent to verify the communal status of the writ petitioner.

7. In our considered view, this fresh exercise attempting to be done by the respondents is wholly without jurisdiction, in the light of the communal status having been settled pursuant to the decision of the Hon'ble Division Bench of this Court in W.P.(MD) No.8253 of 2007. In several decisions of this Court, reopening of verification have been deprecated. Further more, the Hon'ble Division Bench of this Court also took note of the case of the petitioner's sister N.Rajeswari and granted the relief. Admittedly, there is no change of circumstances for the fourth respondent to reopen the matter, for which he has no jurisdiction. In fact this was precisely attempted to be made in the case of the petitioner's sister, N.Rajeswari and the Court in the decision reported in 2000 (1) MLJ (cited supra) held that in the absence of any change or circumstances cancellation was not justified.

8. The said position will apply in full force to the present case and the petitioner's case is a better case. Re-verification cannot be done without any change of circumstances, more so in the light of the decision of the Hon'ble Division Bench of this Court, which restored the petitioner's community certificate certifying that he belongs to Hindu Sholaga Community. Therefore, the proceedings of the fourth respondent, dated 10.07.2019 in Na.Ka.A3/2283/19 is wholly without jurisdiction though it is based upon any directions issued by the respondents 1 and 2 vide their proceedings, dated 25.07.2019 and 19.02.2018, that are also without jurisdiction. Hence, this writ appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

// True Copy //

Sub Assistant Registrar(CS)

ta



To

1. The Principal Secretary,
Department of Adhi Dravida and
Scheduled Welfare Department,
Government of Tamil Nadu,
Fort St. George, Chennai-600 009.
2. The District Collector,
Tirunelveli District,
Tirunelveli-627 009.
3. The Deputy Superintendent of Police,
Social Justice and Human Rights & Vigilance Cell,
Tirunelveli-627 002.
4. The Sub Collector,
Cheranmahadevi-627 414,
Tirunelveli District.
5. The Tahsildar,
Nanguneri Taluk,
Nanguneri-627 108,
Tirunelveli District.

+1CC TO MR.P.JEESI JEEVA PRIYA, Advocate Sr. No.98445
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 98813

W.P (MD) No. 23987 of 2019
14.11.2019

KG (CO)
TR (05.12.2019) 5P 8C