

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 703 of 2020
and
W.M.P. No. 845 of 2020

S. Sivakumar

... Petitioner

-vs-

1. The District Collector,
Erode District, Erode.
2. The Returning Officer/Block Development Officer,
Dukanayakanpalayam Union,
Gobichettipalayam Taluk,
Erode District.
3. The Tahsildar,
Gobi Chettipalayam Taluk,
Erode District.

4. A.F. Prakash

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the First Respondent from discharging his duties as President of Perumugai Panchayat which was based on the false Community Certificate issued by the Third Respondent in favour of the Fourth Respondent as Boyer S.C. Community dated 28.03.2007 and produced before the Election Commission during December 2019 to secure the ends of justice by considering the representation of the Petitioner dated 06.01.2020 in accordance with law.

For Petitioner : Mr. R. Sanakarasubbu

For Respondents : Mr. V. Jayaprakash Narayanan,
Government Pleader
(for R1 to R3)

: Mr. C. Kanagaraj (for R4)

O R D E R

Heard Mr. R. Sankarasubbu, Learned Counsel for the Petition Mr. V. Jayaprakash Narayanan, Learned Government Pleader appearing for the First to Third Respondents and Mr. C. Kanagaraj, Learned Counsel for the Fourth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The post of President of Perumugai Panchayat in Erode District of Tamil Nadu has been reserved for persons belonging to the Scheduled Castes. The Fourth Respondent, who has been issued community Certificate No. 4801269 dated 28.03.2007 that he belongs to Hindu - Bandi Community, which is recognized as a Scheduled Caste, was elected to that post in the election held during December 2019. Complaining that the Fourth Respondent actually belonged to the Boyer Community, which has been classified as Most Backward Class, and does not belong to any of the recognized Schedule Castes, the Petitioner made a representation dated 06.01.2020 to the First Respondent to remove the Petitioner from that post and conduct fresh election. As no action had been taken thereon, the Petitioner has filed this Writ Petition to forbear the First Respondent from discharging his duties as President of Perumugai Panchayat which was based on that false Community Certificate dated 28.03.2007 issued by the Third Respondent in favour of the Fourth Respondent as Boyer Community, which is a recognized Scheduled Caste, and produced before the Election Commission during December 2019, by considering his said representation.

3. It is now settled position of law after the formulation of the scheme by the Hon'ble Supreme Court of India in Kumari Madhuri Patil -vs- Additional Commissioner, Tribal Welfare (AIR 1995 SC 94) that in the absence of legislation to the contrary, any one claiming status of Schedules Caste or Scheduled Tribe for availing benefits of reservation of posts conferred by the Constitution has to necessarily hold a certificate to that effect issued by the concerned authority and its verification would also have to be made in the manner prescribed thereunder and such determination would be conclusive. In the State of Tamil Nadu, the verification of Scheduled Caste Certificate would have to be made by the concerned District Level Vigilance Committee in terms of G.O.(2D) No.108 Adi Dravidar and Tribal Welfare (CV-I) Department dated 12.09.2007, which has been issued pursuant to the aforesaid binding ruling of the Hon'ble Supreme Court of India, which holds the field.

4. The Respondents have produced a Community Certificate No. 4801267 dated 28.03.2007 issued by the Tahsildar,

Gobichettipalayam that the Fourth Respondent belongs to Hindu - Bandi Community, which has been recognized as a Scheduled Caste. As such, it is borne out from the record that the Fourth Respondent possesses the requisite Schedule Caste Community Certificate for holding the post of President of Perumugai Panchayat for whom the said post has been reserved.

5. In the aforesaid circumstances, if the Petitioner wants to impeach the claim of the Fourth Respondent that he belongs to Scheduled Caste, he has to make necessary application before the District Level Vigilance Committee for verification of the Schedule Caste Community certificate of the Fourth Respondent and the entitlement of the Fourth Respondent to continue in the post of President of Perumugai Panchayat would be dependent upon its outcome. However, till the Scheduled Caste Community Certificate of the Fourth Respondent is not cancelled by the competent authority, the question of forbearing the Fourth Respondent from discharging his duties as President of Perumugai Panchayat does not arise. This view is fortified by the rulings of the Hon'ble Supreme Court of India in the decisions in Kurapati Maria Das -vs- Dr. Ambedkar Seva Samajan [(2009) 7 SCC 387], Ayaaubkhan Noorkhan Pathan -vs- State of Maharashtra [(2013) 4 SCC 465], Bharati Reddy -vs- State of Karnataka [(2018) 6 SCC 162] and District Collector, Satara -vs- Mangesh Nivrutti Kashid [(2019) 10 SCC 166] where the aforesaid course of action to be followed in such matters has been reiterated.

6. Accordingly, the Writ Petition is dismissed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vjt/das

To

1. The District Collector,
Erode District,
Erode.
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3. The Tahsildar,
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+1cc to Mr.C.Kanagaraj Associates, Advocate, S.R.No.9862

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RJI (CO)
KKV/10/06/2020