

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.11.2020

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.20716 of 2013

N.A.Vikram

... Petitioner

vs.

1.Union Public Service Commission,
Rep by its Secretary,
Dholpur House,
Shahjahan Road,
New Delhi 110 069.

2.The Union of India,
Rep. by its Secretary to Government,
Ministry of Environment and
Forest, Paryavaran Bhavan,
CGO Complex, Lodi Road,
New Delhi -110 003.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorarified Mandamus to call for the records of the 1st respondent dt 4.4.13 No. IFOS 2012/Roll No. 43188/B. IX and quash the same and consequently direct the respondents to treat petitioner candidature as OBC.

For Petitioner : Mrs. Selvi George

For Respondent(s):M/S.R.Priya Kumar for R1

ORDER

This writ petition has been filed by the petitioner, to call for the records of the 1st respondent dt 4.4.13 No. IFOS 2012/Roll No. 43188/B. IX and quash the same and consequently direct the respondents to treat petitioner candidature as OBC.

2.The case of the petitioner is that he has completed his higher secondary in the year 2000 and thereafter he joined B.Tech and subsequently completed the same. While so, the 1st respondent issued a publication and for recruitment to which he has applied for the same in the year 2012. The petitioner further averred that he belongs to Hindu, Ayeera Vaisyar

Community which has been recognized as Other Backward Class by the Government of India. The petitioner has categorically mentioned in the application that he belongs to other backward community and also produced the community certificate to substantiate his claim. Apart from the above fact, he is a resident of Puducherry. Though the petitioner secured eligibility mark for the OBC category, his application was not considered under OBC category but, was considered only in General turn, which resulted in rejection. Hence the present writ petition.

3.Learned counsel for the petitioner submitted that though the petitioner's native is Tamilnadu, subsequently he migrated to Puducherry. In Pondicherry, he participated in the IFS-examination, and in support of his community, he produced two community certificates, one issued by the Puducherry Government and another issued by Tamilnadu Government. In the Tamilnadu community certificate, his community has mentioned as AYEERA VAISYAR community, however the Puducherry Government issued a community certificate as AYIRA VAISYER which is notified in the central list for Puducherry. However the AYEERA VAISYAR certificate issued by the Government of Tamil Nadu is not notified in the central list in respect of Tamilnadu State, which resulted in the petitioner being treated as a General turn candidate resulting in rejection of his candidature. It is the submission of the learned counsel that the respondents have not properly appreciated the community certificates issued to him.

3.Though the petitioner has filed the writ petition challenging the impugned order in considering the petitioner as a General Turn candidate, however, it is his ancillary prayer that the respondents be directed to produce the answer sheet before this Court, by which the petitioner would be in a position to establish that the marks awarded to him is not correct and, in fact, he should be awarded more marks. Therefore, it is pleaded that it would suffice if this Court issues a direction to the respondent to produce the mark sheet before this Court to enable the petitioner to substantiate his case. Accordingly he prays this Court for allowing the petition.

4.Per contra, learned counsel appearing for the respondent submitted that the petitioner had participated in the selection process for 4 times and in the 4th time, the petitioner has made the application from Puducherry claiming residential address at Puducherry, though his native place is shown as Tamil Nadu and the petitioner did not produce the original community certificate, though he produced the Puducherry State Migrant Community certificate. Therefore, the petitioner was called upon by the respondent to produce his original community certificate, which was produced by the petitioner, having been issued by the

Government of Tamilnadu and the said community certificate reveals that the petitioner's community is considered in the General list and not under the reserved OBC category for Tamilnadu. The petitioner's original community certificate reveals that the petitioner's community is not reflected in the Central List as OBC for the State of Tamilnadu. Accordingly his candidature was considered in the General turn for Indian Forest Service Examination, 2012 and the petitioner not having secured the minimum eligible marks in the General category, his candidature was not considered. Insofar as the production of the mark sheet is concerned, the said issue is sub-judice before the Hon'ble Supreme Court. Accordingly the learned counsel prays for dismissal of the present writ petition.

5. This Court heard the submissions advanced by either side learned counsel and also perused the entire materials available on record.

6. It is the admitted case that the petitioner appeared for IFS Examination in the year 2012. To ascertain the clear picture, this Court perused the application submitted by the petitioner, wherein the address at Puducherry is shown in the relevant column as the place of stay of the petitioner. However, in column No.9, the birth place is mentioned as Chennai, Tamil Nadu. Admittedly the petitioner has produced two community certificates, while filing the application. But no fresh OBC certificate, except the above two certificates have been placed by the petitioner when he was interviewed on 27.02.2013. a perusal of the Central list of OBC pertaining to Tamil Nadu State reveals that AYEERA VAISYAR community is not shown in the OBC category in the Central List., whereas in the Central List in respect of Union Territory of Puducherry, AYIRA VAISYER community is shown as OBC, but there is no community as AYEERA VAISYAR in Union Territory of Puducherry, shown in the Central List.

7. When the native of the petitioner is Tamil Nadu, though for the present he is a resident of Puducherry, normally nativity of the petitioner is the basis for the purpose of ascertaining and fixing his community.

8. Be that as it may. When two community certificates are with the petitioner and the nativity of the petitioner is Tamil Nadu, the respondents, on the basis of the Central List pertaining to the State of Tamil Nadu have taken the community of the petitioner under the General Turn. This Court cannot interpret the community of the petitioner one way or the other, when the petitioner is possessed of two community certificates, one pertaining to his residence and the other pertaining to his nativity. The respondents have rightly considered the community

of the petitioner on the basis of the nativity of the petitioner, which cannot be found fault with and the contention relating to the same deserves to be rejected.

9. Insofar as production of answer sheet sought for by the petitioner is concerned, it is to be pointed that the said contention is made across the Bar and is not the prayer in the writ petition. When no prayer has been made by the petitioner in the writ petition, merely on the basis of a contention advanced, this Court cannot decide on the said issue. Accordingly, the said submission advanced by the learned counsel for the petitioner is also liable to be rejected.

10. For the reasons aforesaid, this writ petition is devoid of merits and, accordingly, the same is dismissed. However in the circumstances, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

jrs

To

1. The Secretary,
Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi 110 069.
2. The Secretary to Government,
Union of India,
Ministry of Environment and
Forest, Paryavaran Bhavan,
CGO Complex, Lodi Road,
New Delhi -110 003.

+1cc to Mrs. Selvi George, Advocate Sr.37298

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BS(CO)
srg 03/02/2021