

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.Nos.8876, 8475, 8539, 8638, 8683, and 8879 of 2020
and

W.M.P.Nos.10786, 10223, 10319, 10320, 10457, 10458,
10793, 10521, 10522, 10790, 10793, 10794 of 2020

WP.No.8876 of 2020:

N.Narayanan,
Son of Narasimhan,
State President,
Thamizhnadu Brahmin Association,
Residing at No.62/6, R.K.Mut Road,
Mylapore, Chennai 600 004. Petitioner

-Versus-

1.The State of Tamil Nadu,
Rep. by The Principal Secretary,
Revenue Department, Fort St. George,
Chennai 600 104.

2.The Principal Secretary/
The Commissioner of Revenue Administration,
Chepauk, Chennai 600 005.

3.The Union of India,
Rep. by The Secretary,
Ministry of Social Justice and Empowerment,
Shastri Bhawan,
New Delhi 110 001. Respondents

WP.No.8475 of 2020:

1 Takepon Reddy Nala Sangam
Tamil Nadu Kerala & Pondicherry
Reddy Nala Sangam
By its Executive Member
G.Girubakaran

[PETITIONER]

Vs

1.The Chief Secretary Government of Tamil Nadu
Fort St.George Chennai-9

2.The Principal Secretary
Commissioner of Revenue Administration
Chepauk,
Chennai-5

3.The Director
Department of Personnel and Training
Ministry of Personnel
Public Grievances & Pensions
Government of India
North Block New Delhi

Appearance: WP.No.8475/2020

For Petitioners:Adithya Reddy
For Respondents:Mr.Vijayanarayanan Advocate General Assisted
by V.Jaya Prakash Narayanan Government pleader for RR1 to R2
G.Karthikeyan Assistant Solicitor General for R3

Prayer in WP.No.8475 of 2020:Writ Petition filed under article 226 of the Constitution of India praying to declare the proceeds of the 2nd Respondent in letter No.RA5(3)/40521/2017 dated 04.06.2020 as illegal and ultra vires of the Constitution and thereby direct the respondents 1 and 2 to implement its earlier circular in Letter No.RA5(3)/40521/2017 dated 04.05.2019 and also direct the respondents 1 and 2 to issue Income and Asset Certificate for Economically Weaker Sections(EWS) of Citizens in TamilNadu.

WP.No.8539/2020:

T.P.Kulathumani
President
Akhila Bharath Brahmin Association
No.4/125, Sharma Novas
Parvathipuram, Nagercoil 629 003 ...Petitioner

Vs

1.The State of Tamil Nadu
Through the Principal Secretary
Revenue Department
Fort St.George
Chennai-600 104

2.The Commissioner of Revenue Administration
Ezhilagam
Chepauk
Chennai-600 005

3.Union of India
Through the Secretary
Ministry of Social Justice and Empowerment
Shastri Bhawan
New Delhi ...Respondents

Appearance:

For Petitioners:Adithya Reddy

For Respondents:Mr.Vijayanarayanan Advocate General Assisted
by V.Jaya Prakash Narayanan Government pleader for RR1 to R2
G.Karthikeyan Assistant Solicitor General for R3

WP.No.8638 of 2020:

S.B.Gandhi ...Petitioner

Vs

1.The Government of Tamil Nadu
Rep by its Secretary
Revenue Department
Fort St.George Chennai

2.The Commissioner of Revenue Administration
Government of Tamil Nadu
Chepauk Chennai-5

3.The Secretary
Department of Social Justice and Empowerment
Government of India
Shastri Bhawan, Nungambakkam
Chennai ...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution
of India praying to issue a Writ of Certiorarified Mandamus
calling for the records relating to the impugned Government
letter of the 2nd respondent in his Lr.No.RA5(3)/40521/2017
dated 04/06/2020 quash the same and consequently direct the 2nd

respondent to issue suitable directions to the Tahsildars to continue to issue the income and asset certificate for economic weaker section either through online or manually as before.

WP.No.8683 of 2020:

A.Ashvathamam

...Petitioner

VS

1.The Principal Secretary
State of Tamil Nadu rep by its
Secretary to Government
Secretariat Chennai

2.The Commissioner of Revenue Administration
Chepauk Chennai-600 005 ...Respondents

Appearance:

For Petitioners:A.Ashvathamam
party in person

For Respondents:Mr.Vijayanarayanan
Advocate General, Assisted by
V.Jayaprakash Narayanan Government Pleader for
RR1 & R2

WP.No.8879 of 2020:

Thamizhnadu Brahmin Association
by its State President
S.Ramakrishnan ...Petitioner

Vs

1.The Chief Secretary
Government of Tamil Nadu
fort St.George
Chennai-9

2.The Principal Secretary
Commissioner of Revenue Administration
Chepauk
Chennai-5

3.The Director
Department of Personnel and Training
Ministry of Personnel
Public Grievances & Pensions
Government of India
North Block
New Delhi

...Respondents

WP.No.8879 of 2020:Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ to declare the proceedings of the 2nd respondent in letter No.RA5(3)40521/17 dated 04/06/2020 as illegal and ultra vires of the Constitution of India and thereby direct the respondents 1 & 2 to implement its earlier circular in letter to RA593) 40521/17 dated 04/05/2019 and thereby direct the respondents 1 & 2 to issue Income and Asset certificate for Economically Weaker Sections (EWS) of Citizens in Tamil Nadu.

Common Prayer in W.P.No.8876,8539,8683 & 8475 of 2020: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, declaring that the impugned letter in RA 5(3)/40521/2017 dated 04.06.2020 issued by the 2nd respondent as unconstitutional and consequently quash the same.

For Petitioners : Mr.N.C.Ashok Kumar for petitioner in W.P.No.8876 of 2020

For Respondents : Mr.Vijaynarayanan, Advocate General Assisted by Mr.V.Jayaprakash Narayanan, Government Pleader for RR1 and 2 in W.P.No.8876 of 2020

Mr.G.Karthikeyan, Assistant Solicitor General of India for R3 in W.P.No.8876 of 2020

सत्यमेव जयते
COMMON ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

Since the issue involved in these writ petitions is common, all of them have been taken up together and are being disposed of by way of common order.

2. An Office Memorandum was issued by the Union of India represented by its Secretary, Ministry Social Justice and Empowerment, Department of Social Justice and Empowerment, New Delhi, in F.No.20013/01/2018-BC-II dated 17.01.2019 with

respect to reserve a provision for reservation for Economically Weaker Sections (EWSs) in civil posts and services in Government of India and admission in the Educational Institutions. The following is the operative portion of the aforesaid Office Memorandum:-

"In pursuance of insertion of clauses 15 (6) and 16(6) in the Constitution vide the Constitution (One Hundred and Third Amendment) Act, 2019 and in order to enable the Economically Weaker Sections (EWSs) who are not covered under the existing scheme of reservations for the Scheduled Castes, the Scheduled Tribes and the Socially and Educationally Backward Classes, to receive the benefits of reservation on a preferential basis in civil posts and services in the Government of India and admission in Educational Institutions, it has been decided by the Government to provide 10% reservation to EWSs in civil posts and services in Government of India and admission in Educational Institutions."

3. Another Office Memorandum has been issued by the Government of India, Ministry of Human Resources Development, Department of Higher Education, in F.No.12-4/2019-U1 dated 17.01.2019 which is appositely referred hereunder:

"In accordance with the provisions of the Constitution (One Hundred and Third Amendment Act 2019, and the reference of Ministry of Social Justice and Empowerment vide OM No.20013/01/2018-BC-II dated 17th January 2019, enabling provision of reservation for the Economically Weaker Sections (EWSs) who are not covered under the existing scheme of reservation for the Scheduled Castes, the Scheduled Tribes and the Socially and Educationally Backward Classes, it has been decided to provide reservation in admission to educational institutions subject to a maximum of ten per cent of the total seats in each category. This would not apply to the minority educational institutions referred to in clause (1) of Article 30 of the Constitution of India."

4. Pursuant to the above, the State of Tamil Nadu issued a Circular No.4 of 2019 dated 04.05.2019 in Lr.No.RA 5 (3)/40521/2017 by which instructions were issued for the issuance of Income and Asset Certificate for Economically Weaker Sections (EWSs) so as to enable them to get admissions and appointments on preferential basis in civil posts and services in the Government of India apart from getting admission in Educational Institutions which is coming under it for the provision of 10% reservation. This was withdrawn by impugned order dated 04.06.2020, as a result, all the writ petitions have been filed.

5. The learned Advocate General produced a copy of the communication dated 09.07.2020 by which the impugned circular dated 04.06.2020 was withdrawn and therefore, the Circular No.4 of 2019 has been restored. Therefore, nothing survives in these writ petitions and the writ petitions will have to be dismissed.

6. However, the learned counsel for the respective petitioners sought a clarification to the effect that in the State of Telangana, 10% reservation is being followed. Therefore, the certificate to be issued for the purpose of getting admission in the Educational Institutions coming under the Central Government and the posts reserved for such category in Central Government will have to be made applicable to such posts and admission contemplated or provided by the State of Tamil Nadu also.

7. The learned Advocate General appearing for the State submitted that no such category can be earmarked. However, a certificate will be issued stating that it is issued only for the purpose of getting admission in the posts and Educational Institution in the Central Government and it is for the respective State to take into consideration of the said Certificate. We find, even in the State of Tamil Nadu, such policy is not being adopted and therefore, it is restricted only to the employment in the Central Government apart from admission in the Institutions maintained by the State.

8. In view of the same, all these writ petitions stand disposed of in the light of the discussions made hereinabove by taking into consideration the subsequent circular dated 09.07.2020. It is for the respective State Governments to take into consideration the certificate issued by the State of Tamil Nadu for the purpose of applying 10% reservation for EWSs. It is made clear that if the petitioners are aggrieved with the proceedings dated 09.07.2020, it is open to them to work out their remedy in the manner known to law. We further make it

clear that the State Government can also consider the Format attached to the Circular issued by the Government of India while issuing such certificate. No costs. Consequently, connected WMPS are closed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

raa

To

- 1.The Principal Secretary, Government of Tamil Nadu,
Revenue Department, Fort St. George, Chennai 600 104.
- 2.The Principal Secretary/ The Commissioner of Revenue
Administration,
Chepauk, Chennai 600 005.
- 3.The Secretary, Government of India, Ministry of Social
Justice and
Empowerment, Shastri Bhawan,
Nungambakkam Chennai
- 4.The Director Department of Personnel & Training
Ministry of Personnel Public Grievance
and Pensions Government of India
North Block New Delhi

+1 cc to Mr.N.Suresh Advocate sr25654
+1 cc to Mr.ML.Ramesh Advocate sr25712
+1 cc to the Government Pleader sr25859

Writ Petition
Nos.8876, 8475, 8539, 8638, 8683,
and 8879 of 2020

sks (co)
aa02/09/2020

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