

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2020

CORAM :

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

W.P.No.19316 of 2020

Shri.R.Anandha Babu,
Advocate, Madras High Court,
Treasurer, Chennai Vanniyakula Kshatriya Maha Sangam,
Advocate for Vanniyakula Kshatriya Community Societies,
Having Office at No.16/6, Appadurai Street,
Vanniyar Teynampet, Chennai - 600 018. ... Petitioner

Vs.

- 1.The Registrar General and Census Commissioner of India,
Office of the Registrar General & Census Commissioner of
India,
Ministry of Home Affairs, Government of India,
NDCC Bldg-II, 3rd Floor, Jai Singh Road, New Delhi - 110
001.
- 2.The Director of Census Operations,
Directorate of Census Operation of Tamil Nadu,
"E" Wing 3rd Floor, Rajaji Bhavan,
Besant Nagar, Chennai - 600 090. ... Respondents

Prayer : Writ Petition filed under Article 226 of the
Constitution of India for issuance of a Writ of Mandamus to
direct the respondents to consider the petitioner
representation dated 14.03.2020 within a stipulated time fixed
by this Hon'ble Court and to consequently direct the
respondents proposed 2021 National General Census to be
conducted as Caste wise Census.

For Petitioner : Shri.R.Anandha Babu
(Party-in-Person)

For R1 : Mr.V.Chandrasekaran

For R2 : Mr.V.Jayaprakash Narayanan
State Government Pleader
Assisted by Mr.M.Elumalai,
Additional Government Pleader

O R D E R

(Order of the Court was made by M. SATHYANARAYANAN, J.)
(Through Video Conferencing)

The petitioner is a practicing Advocate of this Court and also the Treasurer of Chennai Vanniyakula Kshatriya Maha Sangam and would further claim that he is the Advocate for Vanniyakula Kshatriya Community, and came forward to file this writ petition styled as a "Public Interest Litigation", stating among other things as follows :

2.The petitioner would state that he belongs to Hindu Vanniyakula Kshatriya Community, and as per the Socio Economic and Caste Census, there are more than 46 Lakhs Castes, Sub-Divisions, Gothirams, Caste Names, Communities, and as per the Mandal Commission, more than 50% Backward and Most Backward Community people are residing in India, and they get priority of their representation at only about 12%. The petitioner would further aver that, in Tamil Nadu, Vanniyakula Kshatriya Community is found as a separate single largest community, and they are dominant atleast in 18 districts spread over Tamil Nadu.

3.The petitioner/Party-in-Person would submit that, in order to get employment in Government, higher positions in private sectors, political, judiciary, education, administration, etc., preference has to be given on pro rata basis, and for that purpose, community-wise Census is the only solution. It is the further submission of the petitioner/Party-in-Person that, social justice requires the people to get reservation according to the population of each community. In Para No.9, it is averred by the petitioner that Vanniyakula Kshatriya Community is claiming reservation of 20% in the State of Tamil Nadu and 2% in the Centre, and for very many years, each and every community is indulging in genuine agitations to get their respective reservations. The petitioner would also point out that, though the endeavour is to have a casteless society, the fact remains that, in respect of social functions, especially marriages, the said functions are taking place only in terms of caste-wise basis, and in the event of caste-wise Census being conducted, respective community shall get recognised as per the population in education, employment, political, and other fields. The petitioner/Party-in-Person would submit that a detailed representation, dated 14.03.2020, submitted in this regard to the respondents, despite receipt and acknowledgment, is yet to evoke any kind of response, and therefore, the petitioner came forward to file this writ petition. The petitioner/Party-in-Person would plead before this Court that it would suffice to direct the respondents 1 and 2 to consider and dispose of the representation, dated 14.03.2020, on merits and in accordance with law, at the earliest.

4.This Court paid its anxious consideration and best attention to the arguments advanced by the petitioner/Party-in-Person, who is also a practicing Advocate of this Court, and has also gone through the contents of his representation dated 14.03.2020.

5.The petitioner prays for issuance of a writ of mandamus to consider his representation, dated 14.03.2020, within a stipulated time fixed by this Court, with a consequential direction directing the respondents to conduct 2020-2021 National General Census as caste-wise census and to grant such further relief.

6.It is well settled position of law that a writ of mandamus cannot be issued for a mere asking or on the basis of sympathy alone. It is obligatory on the part of the petitioner to point out the infraction(s) of the relevant statutory provisions/rules or non-compliance of the same.

7.The petitioner/Party-in-Person is unable to point out any statutory provisions or administrative instructions which cast obligation on the part of the respondents 1 and 2, to consider his representation submitted for conducting caste-wise census by the respondents 1 and 2.

8.This Court can take judicial notice of the fact that, very recently, the Government of Tamil Nadu has appointed a Commission headed by Hon'ble Mr. Justice A.Kulasekaran, Retired Judge of this Court, to collect caste-wise data so as to enable the Government of Tamil Nadu to take policy decision in that regard.

9.It is the specific case of the petitioner/Party-in-Person that Vanniyakula Kshatriya Community is one of the major communities in the State of Tamil Nadu, and they represent nearly 20% of the State population, and they are dominant in 18 Districts spread over the State. In the considered opinion of this Court, the said Commission may address the grievance expressed by the petitioner.

10.The petitioner/Party-in-Person would submit that, during British regime, caste-wise census was conducted, and has also drawn the attention of this Court to the communication of the Superintendent of Census Operations, Madras, dated 14.01.1921, addressed to Mr.C.Rajaratna Naicker, President, Vanniyakula Kshatriya Maha Sangam, Madras, and therefore, prays for similar exercise.

11.The British Raj, for convenience of the Administration, would have done that exercise, and that apart, the result of the said exercise said to have been carried out in the light of the above said communication, has not been

disclosed in the affidavit filed in support of this writ petition.

12.The present endeavour is to move towards a casteless society and it is also relevant to extract Article 38 of Part-IV (Directive Principles of State Policy) of the Constitution of India :

"38. State to secure a social order for the promotion of welfare of the people.-(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

(2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations."

13.The petitioner, in real and technical sense, wants to minimise the alleged inequalities said to have been present among various castes/communities. However, in the light of Article 37 of the Constitution of India, the provisions contained in Part-IV, shall not be enforceable by any Court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

14.The petitioner/Party-in-Person is unable to point out any infraction or non-compliance of the statutory provisions/rules/administrative instructions on the part of the respondents 1 and 2, and that apart, in the light of the Article 37 of the Constitution of India, this Court cannot issue any positive direction to the respondents 1 and 2. If the petitioner is so advised, he is at liberty to invoke the provisions of the Right to Information Act, 2005, to know about the fate of his representation, dated 14.03.2020, submitted to the respondents 1 and 2.

In the result, this writ petition is dismissed subject to the above observations. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

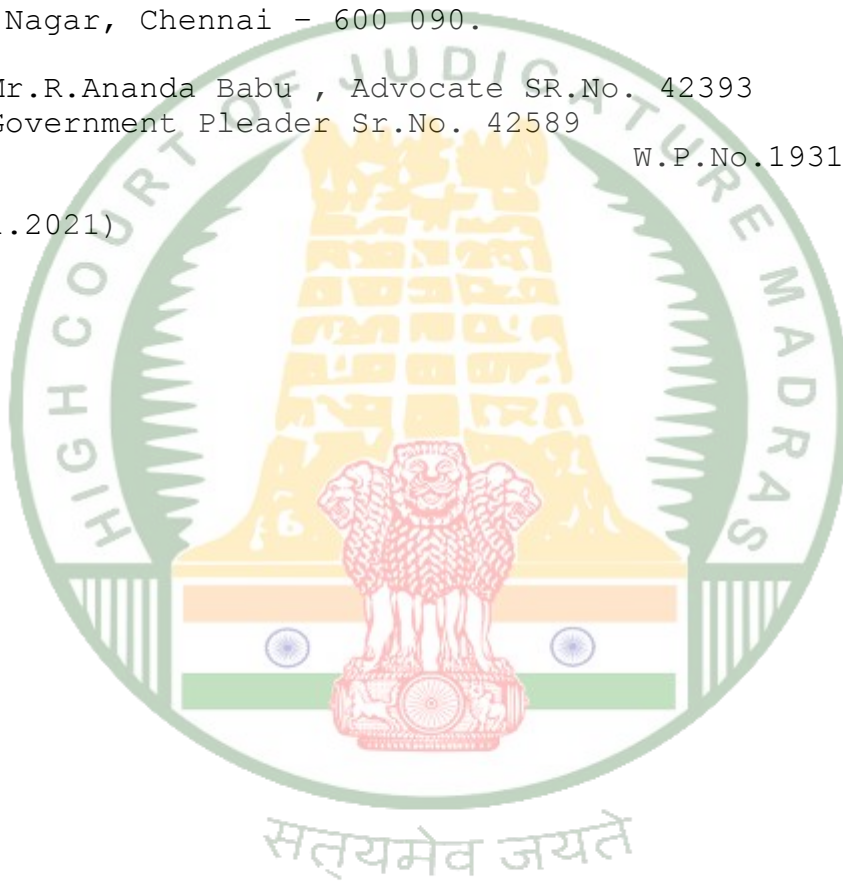
1.The Registrar General and Census Commissioner of India,
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Besant Nagar, Chennai - 600 090.

+5ccs to Mr.R.Ananda Babu , Advocate SR.No. 42393
+1 cc to Government Pleader Sr.No. 42589

W.P.No.19316 of 2020

Rv
A.SK(25.01.2021)



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