

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.01.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

WP.No.1423 of 2021
and W.M.P.No.1604 of 2021

M.Hema

..Petitioner

Versus

- 1.The State Level Scrutiny Committee II
rep.by its Chairman
Adi-Dravidar and Tribal Welfare Department,
Namakkal Kavignar Maligai,
Secretariat, Chennai 600 009.
- 2.The Sub-Collector,
Cheranmahadevi
Thirunelveli District.
- 3.The Deputy Superintendent of Police,
Social Justice and human Rights Wing,
Tirunelveli, Tirunelveli District.
- 4.The Deputy Superintendent of Police,
Social Justice and Human Rights Wings,
Madurai Region, Madurai District.
- 5.The District Collector
Tirunelveli District
Tirunelveli
- 6.The Chennai Port Trust,
rep. By its Chairman
Rajaji Salai, Chennai 1.

..Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records relating to the impugned order in proceedings No.19888/CV-2(2)/2012-12 dated 05.01.2021 of the first respondent and quash the order passed therein .

For Petitioner : Mr.Yogesh Kannadasan
For RR1 to 5 : Mr.R.Vijayakumar
Additional Government Pleader
For R6 : Mr.R.Karthikeyan

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J. through video conferencing]

By consent, the Writ Petition is taken and it is disposed of by this final order.

2. Mr.R.Vijaya Kumar, learned Additional Government Pleader accepts notice on behalf of the respondents 1 to 5 and Mr.R.Karthikeyan, learned standing counsel accepts notice on behalf of the 6th respondent.

3. Mr.Yogesh Kannadasan, learned counsel appearing for the petitioner would submit that the petitioner was selected and appointed as nurse in the year 1982, as she belongs to Hindu Scheduled Tribe Kondareddy Community and she retired as a Matron on 30.09.2018. It is the further submission of the learned counsel appearing for the petitioner that during the year 2002, when the name of the petitioner was under consideration for promotion as a matter, a false complaint / representation, came into being as if she does not belong to Hindu Scheduled Tribe Kondareddy community and proceedings were initiated and she was called upon to appear for enquiry before the 1st respondent on 20.10.2015, 13.08.2018, 07.12.2020 and with regard to the date of enquiry on 15.10.2015, she was suffering due to viral fever and in this regard, she has also applied for medical certificate and with regard to the specific hearing dates, she became aware of the fact that in compliance of the order passed in W.P.No.9498 of 2018, enquiry was being done and on legal advice, she filed necessary petition for reopening the said Writ Petitions and on that pretext, she did not attend the enquiry. It is also the submission of the learned counsel appearing for the 6th respondent that dehors the petitioner did not attend the enquiry on three hearing dates, still it is obligatory on the part of the 1st respondent to consider the materials made available.

4. It is the submission of the learned counsel appearing for the petitioner by drawing attention of this Court to paragraph no.12 of the impugned order that none of the materials placed before the committee have been considered and by a non speaking

and cryptic order, the impugned order came to be passed to confiscate the Kondareddy Community Certificate issued by the Deputy Tahsildar, Radhapuram, Tirunelveli District.

5. Per contra, Mr.R.Vijayakumar, learned Additional Government Pleader accepts notice on behalf of the respondents 1 to 5 and would submit that though the impugned order does not reflect the consideration of the materials, the fact remains that the petitioner by playing fraud, managed to enter into the services by adopting dilatory tactics and managed to remain in service till the date of her superannuation on 30.09.2018 and hence prays for dismissal of this Writ Petition.

6. Mr.R.Karthikeyan, learned Standing Counsel appearing for the 6th respondent would submit that the petitioner by adopting dilatory tactics and unreasonable methods has protracted the enquiry and despite fair opportunity has given, she did not attend the enquiry and hence the impugned order is purely unsustainable and prays for dismissal of this Writ Petition with exemplary costs.

7. This Court has carefully considered the rival submissions and also perused the materials placed before it.

8. The fact remains that the petitioner has entered into service as Nurse in the services of the 6th respondent namely the Chennai Port Trust and retired from service on 30.09.2018 as matter and in the interregnum, proceedings were initiated with regard to the alleged fabrication and production of a false Community Certificate dated 24.09.1976, issued by the Deputy Tahsildar, Radhapuram, Tirunelveli District, stating that she belongs to Hindu Scheduled Tribe Kondareddis Community. A perusal of the impugned order would read among other things that the materials collected / submitted during the course of enquiry by the 1st respondent have not at all been considered and by a cryptic and non speaking order, the 1st respondent Committee has ordered confiscation of the said Certificate. In the considered opinion of this Court, the order is a non speaking one, especially in the light of the fact that the social stand of the petitioner who said to have belonged to Hindu Scheduled Tribe Kondareddy Community, is under question and as such, on the sole ground, the impugned order warrants interference.

9. In the result, the Writ Petition is Partly Allowed and the impugned order dated 05.01.2021, is set aside and the matter is once again remanded to the 1st respondent. It is needless to point out that the petitioner is directed to extend her maximum cooperation to the 1st respondent to conclude the enquiry and the 1st respondent, after hearing the petitioner, shall pass appropriate orders in accordance with law within a period of

three months from the date of receipt of a copy of this order / uploading of the order in the website and depending upon the result of the same, it is open to the petitioner as well as the 6th respondent to proceed further. No costs. Consequently connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1.The Chairman,
The State Level Scrutiny Committee II,
Adi-Dravidar and Tribal Welfare Department,
Namakkal Kavignar Maligai,
Secretariat, Chennai 600 009.
- 2.The Sub-Collector,
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Tirunelveli District.
- 3.The Deputy Superintendent of Police,
Social Justice and human Rights Wing,
Tirunelveli, Tirunelveli District.
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- 5.The District Collector
Tirunelveli District
Tirunelveli
- 6.The Chairman,
The Chennai Port Trust,
Rajaji Salai, Chennai 1.

+1 Cc to M/s. Yogesh Kannadasan, advocate sr 4632.

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SRA (CO)
SP(25/03/2021)