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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.P. No. 3518 of 2020
and
W.M.P. No. 4114 of 2020

K.Mahalingam ... Petitioner

Vs.

1.State Level Scrutiny Committee II
Represented by the Chairman and Additional
Secretary to Government
Adi Dravidar and Tribal Welfare Department
Secretariat, Chennai - 600 009.

2.The Director of Tribal Welfare
Chennai - 600 005.

3.The Secretary
Chennai Port Trust
No.1, Rajaji Salai
Chennai - 600 001.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records in the order bearing No.18643/CV-2/2014-23 dated 04.02.2020 passed by Respondent No.1 and quashing the same.

For Petitioner : Mr. M.Radhakrishnan

For Respondents : Mr. P.Balathandayutham
State Government Counsel (For R1 & R2)

Mr. R.Karthikeyan (For R3)



O R D E R
(Order of the court was made by N.KIRUBAKARAN.J.,)

The matter was heard through "Video Conference".

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2. The Petitioner, who was issued a community certificate dated 28.06.1977 stating that he belongs to Hindu Kurumans Scheduled Tribe, has approached this Court challenging the order dated 04.02.2021 vide proceedings No.18643/CV-2/2014-23 passed by the First Respondent Committee, by which it has been held that the Petitioner does not belong to Hindu Kurumans Scheduled Tribe community. The First Respondent Committee commenced community certificate verification through Scheduled Caste /Scheduled Tribe, Vigilance Cell, Vellore District. The Petitioner gave a detailed representation dated 23.11.2019 and the Petitioner was directed to appear before the First Respondent Committee on 26.11.2019 with all supporting documents. The First Respondent Committee though gave number of opportunities for the Petitioner to appear before the First Respondent Committee, the Petitioner did not choose to appear before the said Committee. Therefore, based on the available documents, the First Respondent Committee came to the conclusion that the Petitioner does not belong to the Hindu Kurumans Scheduled Tribe community. The said order is being challenged before this Court.

3. Heard Mr. M.Radhakrishnan, Learned Counsel for the Petitioner, Mr. P.Balathandayutham, Learned State Government Counsel appearing for the First and Second Respondents and Mr. R.Karthikeyan, Learned Counsel appearing for the Third Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

4. It is evident from the order passed by the First Respondent Committee, especially, paragraph No.15 wherein it has been stated that the Petitioner was not present for the enquiries conducted on 14.05.2019, 28.06.2019 and 26.11.2019. Paragraph No.15 is extracted hereunder : -

"15. After receipt of the enquiry report of the Deputy Superintendent of Police, Scheduled Caste/ Scheduled Tribe Vigilance Cell, Social Justice and Human Rights Wing, Vellore, the individual Thiru.K.Mahalingam, S/o.Thiru Karibeeran was requested to appear before the State Level Scrutiny Committee-II for enquiry on 14.05.2019, 28.06.2019 and 26.11.2019. The individual was not present for enquiry on those days."

Similarly, in paragraph No.17, it has been stated that the Petitioner did not avail the opportunities to attend the enquiry



meetings and failed to produce reliable documents to prove his community claim. It is true that the First Respondent Committee gave many opportunities to the Petitioner, however, the Petitioner could not be present before the said Committee.

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5. Taking into consideration, the community certificate is taken away by the impugned order, though there is a lapse on the part of the Petitioner in not attending the enquiry, which he has got right to avail, this Court is inclined to set aside the order passed by the First Respondent Committee and the First Respondent Committee is directed to conduct an enquiry, giving one more opportunity to the Petitioner, which the Petitioner shall avail, failing which his right to avail the opportunity would not be available and pass appropriate orders on merits, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that this Court has set aside the order passed by the First Respondent Committee not on merits, which is only based on the contentions that the Petitioner has not availed the opportunity to take part in the enquiry proceedings to put forth his arguments. It is also made clear that if the Petitioner do not avail the next opportunity, the First Respondent Committee shall at liberty to decide the matter afresh on merits.

6. With the above directions, this Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Maya

To

1.The Chairman and Additional
Secretary to Government
State Level Scrutiny Committee II
Adi Dravidar and Tribal Welfare Department
Secretariat, Chennai - 600 009.

2.The Director of Tribal Welfare
Chennai - 600 005.



3.The Secretary
Chennai Port Trust
No.1, Rajaji Salai
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+1CC to Government Pleader (SR NO.29750)

+2CC to Mr.M.Radhakrishnan, Advocate (SR NO.29488)

+1CC to Mr.R.Karthikeyan, Advocate (SR NO.29545)

W.P. No. 3518 of 2020

PL (CO)

PR (20/07/2021)