

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.04.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

WP.No.8524/2021 & WMP.9079/2021

S.Ganesan

...Petitioner

Versus

- 1.The Tamil Nadu State Level Scrutiny Committee, Adi Dravidar and Tribal Welfare Department, Namakkal Kavignar Maligai, Secretariat Chennai 600009.
- 2.The Director of Tribal Welfare Member Secretary, State Level Scrutiny Committee, Chepauk, Chennai 600 005.
- 3.The Deputy Superintendent of Police Social Justice and Human Rights Unit Tiruvallur District.
- 4.The General Manager Southern Railway, Chennai.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records in Na.Ka.No.72/Sa.Nee [Ma] Ma.Vu.Pee/2017 dated 16.11.2020 on the file of the 3rd respondent and consequential notice of the 2nd respondent made in Na.Ka.No.Pa.Me/Au2/3217/2017 dated 01.03.2021 and quash the same and consequently forbearing the respondents from conducting the enquiry pertaining to the community certificate.

For Petitioner : Mr.L.Chandrakumar

For R1 to R3 : Mr.S.Kamalesh Kannan
Government Advocate

For R4 : Mr.P.T.Ramkumar
Standing counsel

ORDER

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

- (1) The matter is listed today under the caption "'For Being Mentioned'" at the instance of the Registry after the matter was disposed of on 01.04.2021, as certain papers were misplaced.
- (2) Mr.S.Kamalesh Kannan, learned Government Advocate accepts notice on behalf of 1st respondent and Mr.P.T.Ramkumar, learned standing counsel accepts notice on behalf of the 4th respondent.
- (3) The petitioner claims that he belongs to Hindu Scheduled Tribe Kurumans Community and he was also issued with the Community Certificate daetd 05.10.1988 issued by the Tahsildar,, Saidapet Taluk to that effect and that apart, he has also been issued with Hindu Scheduled Tribe Kurumans Community Certificate bearing No.94840, R.Dis.P1/61275/2008 dated 28.05.2014 by the Personal Assistant to the Collector of Chennai District and both the certificates are permanent certificates. The petitioner was selected for Kalasi Group-D post in the services of the 4th respondent and was also issued with an appointment order for the post of Sweeper-cu,-Peon and he joined the post and as on date, continues to be in service.
- (4) The petitioner would further aver that the 3rd respondent called upon the petitioner to produce the community certificate issued by the jurisdictional Revenue Divisional Officer or in the form prescribed by the Railways and therefore, he was constrained to file OA.No.316/2009 on the file of the Central Administrative Tribunal and it came to be disposed of on 13.10.2009 with a direction, directing the respondents to accept the community certificate daed 05.10.1988 produced by the petitioner herein as valid and sufficient one and based upon which, he shall be given appointment to the post of Sweeper-cum-Peon in pursuant to the order of appointment dated 30.05.2008.
- (5) The Community Certificate dated 24.05.2017 issued to the petitioner was forwarded to the 2nd respondent for the purpose of causing verification as to the genuinity and according to the petitioner, the 3rd respondent had submitted a non-speaking report dated 16.11.2020 by erroneously concluding that the petitioner does not belong to Hindu Scheduled Tribe Kurumans Community for the reason that his wife belongs to Hindu Kuravar Community.

- (6) It is the specific case of the petitioner that he has produced various documents of sterling quality to substantiate the fact that he belongs to Hindu Scheduled Tribe Kurumans Community and unfortunately, the 3rd respondent did not follow the various guidelines issued from time to time despite the documents have been produced and therefore, the impugned show cause notice calling upon the petitioner to submit his response is only an empty formality and hence, prays for interference.
- (7) Per contra, Mr.S.Kamalesh Kannan, learned Government Advocate appearing for respondents 1 to 3 would submit that if the petitioner is definite and very optimistic, it is always open to him to submit the documents relied on by him and there cannot be a presumption that the documents submitted by him, will not be considered and prays for dismissal of this writ petition.
- (8) Mr.P.T.Ramkumar, learned standing counsel appearing for the 4th respondent would submit that the report of the 3rd respondent dated 16.11.2020 is a fact finding report/statement and the impugned notice issued by the 2nd respondent is in the nature of show cause notice and it is always open to the petitioner to submit his proper response and depending upon the merits, it is always open to the 2nd respondent to pass appropriate orders.
- (9) This Court has considered the rival submissions and also perused the materials placed before it.
- (10) The primordial submission made by the learned counsel for the petitioner is that despite very many documents of sterling quality have been produced before the 3rd respondent to substantiate his claim that he belongs to Hindu Scheduled Tribe Kurumans Community, the 3rd respondent has completely overlooked the same and submitted a 'cryptic fact finding statement' based upon which, the 2nd respondent has issued the show cause notice and even if the petitioner submits his response, in all probability, it is likely to be rejected and since it is an empty formality, no purpose would be achieved by submitting the response to the show cause notice issued by the 2nd respondent.
- (11) It is the specific case of the petitioner that he produced voluminous documents of sterling quality to substantiate his claim that he belongs to Hindu Scheduled Tribe Kurumans Community and the said Certificates have not been properly appreciated by the 3rd respondent while submitting his enquiry/fact finding report before the 2nd respondent, who issued the impugned show cause notice dated 01.03.2021

- (12) This Court cannot assume or presume that in the event of the petitioner submitting his response to the impugned show cause notice to the 2nd respondent along with supporting documents, he may not take into consideration the said documents. As rightly pointed out by the respective learned counsel for the respondents, the impugned notice is in the nature of a show cause notice and what was submitted by the 3rd respondent is only a fact finding report and it is always open to the 2nd respondent to consider the representation to be submitted by the petitioner along with the said fact finding report.
- (13) Therefore, the petitioner is permitted to submit his response to the impugned show cause notice dated 01.03.2021 issued by the 2nd respondent along with the supporting documents within a period of two weeks from the date of receipt of a copy of this order/uploading of the order in the website and upon receipt of the same, the 2nd respondent shall afford an opportunity of personal hearing to the petitioner and thereafter, consider and dispose of the representation/reply to the show cause notice on merits and in accordance with law and pass appropriate orders, within a further period of six weeks thereafter and communicate the decision taken, to the petitioner.
- (14) The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

सत्यमेव जयते

AP

To

WEB COPY

1.The Tamil Nadu State Level Scrutiny
Committee, Adi Dravidar and Tribal
Welfare Department, Namakkal
Kavignar Maligai, Secretariat
Chennai 600009.

2.The Director of Tribal Welfare
Member Secretary, State Level Scrutiny
Committee, Chepauk, Chennai 600 005.

3.The Deputy Superintendent of Police
Social Justice and Human Rights Unit
Tiruvallur District.

4.The General Manager
Southern Railway,
Chennai.

+1cc to Mr.P.T.Ramkumar, Advocate, S.R.No.21742

+2cc to Mr.N.Naganathan, Advocate, S.R.No.21373, 23505

+1cc to the Government Pleader, S.R.No.21902



WP.No.8524/2021

PMK (CO)
RN(11/05/2021)

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