

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2021

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.364 of 2014 and
and M.P.No.1 of 2014

C.Chinnathai

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary,
Tribal Welfare Department,
Chepauk, Chennai - 9.
2. The Government of Tamil Nadu,
Rep by its Principal Secretary /
Industries Commissioner and
Director of Industries and Commerce,
Chepauk, Chennai - 5.
3. The District Collector,
Collectorate, Erode and District.
4. The Assistant Director
(Industries Co-operative),
District Industries Centre,
Erode and District.
5. The District Forest Officer,
DFO Office, Erode District

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a writ of mandamus to direct the respondents and in particularly 4th respondent to take necessary steps to register the society in the name of "Tamaraikarai Tribal People Herbal Pasteurize Industries Co-operative Society (TTPHPI) for the Tribal Welfare and further direction that the said society has exclusive right together and sell the forest product from Bargur and Andhiyur Forest range in view of the scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

For Petitioner : Mr.P.Vijendran
For Respondents 1 to 4 : Mr.V.Shanmuga Sundar,
Special Government Pleader
For Respondent-5 : Mr.S.Prabhu

O R D E R

This Writ Petition has been filed for a mandamus seeking for a direction to the fourth respondent to take necessary steps to register the society in the name of "Tamaraikarai Tribal People Herbal Pasteurize Industries Co-operative Society" (TTPHPI) for the Tribal Welfare and has also sought for further direction to permit the said society to have an exclusive right to sell the forest products from Bargur and Andhiyur Forest range as per the provisions of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

2. The case of the petitioner is that she is a tribal and the Chief Organizer of "Tamaraikarai Tribal People Herbal Pasteurize Industries Co-operative Society". According to her, more than 100 members belonged to the said tribal community. It is the case of the petitioner that in order to protect tribal interest, they decided to register the Society with the fourth respondent. According to the petitioner, once the Society is registered under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the Tribals are entitled to statutory benefits under the said Act. According to them, the fourth respondent is refusing to register the aforementioned Society, in which, the petitioner claims that she is the Chief Organizer. In such circumstances, this Writ Petition has been filed seeking for registration of the Society, namely, "Tamaraikarai Tribal People Herbal Pasteurize Industries Co-operative Society" by the fourth respondent and the petitioner has also sought for a consequential direction to permit the petitioner Society to sell forest products, as per the provisions of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

3. A counter affidavit has been filed by the fourth respondent, wherein, they have stated that the petitioner has not submitted the required documents for registration of "Tamaraikarai Tribal People Herbal Pasteurize Industries Co-operative Society". They have also stated in paragraph No.9 of the counter affidavit that they are ready to register the Society, if the petitioner furnishes the required documents as per the Tamil Nadu Cooperative Societies Act, 1983 and Rules, 1988.

4. A counter affidavit has also been filed by the fifth respondent. According to the fifth respondent, there are already 6 village forest tribal Committees registered and legally constituted. Hence, the petitioner does not have any right vested in her or her fellow members of the so called "Tamaraikarai Tribal People Herbal Pasteurize Industries Co-operative Society" to collect forest produce inside the reserved forest area.

5. Heard Mr.P.Vijendran, learned counsel for the petitioner, Mr.V.Shanmugasundar, learned Special Government Pleader appearing for the respondents 1 to 4 and Mr.S.Prabhu, learned counsel for the respondent-5.

6. Admittedly, the fourth respondent, as seen from the counter affidavit filed before this Court, is prepared to register the society, namely, "Tamaraikarai Tribal People Herbal Pasteurize Industries Co-operative Society" subject to furnishing all the required documents by the petitioner as per Tamil Nadu Co-operative Societies Act, 1983 and its Rules. In the counter affidavit, the fourth respondent has stated that the Society could not be registered, since the petitioner did not furnish all the required documents as per the provisions of the Tamil Nadu Co-operative Societies Act, 1983 and its Rules.

7. The learned counsel for the petitioner, on instructions, would now submit before this Court that the petitioner is willing to comply with all the statutory requirements, as per the provisions of the Tamil Nadu Co-operative Societies Act, 1983 and its Rules by furnishing all the required documents for the purpose of registering the Society. However, he seeks for a direction from this Court to the respondents to register the Society within a time frame to be fixed by this Court.

8. No prejudice will be caused to the fourth respondent, if such a direction is issued by this Court subject to the fulfilment of all the statutory requirements for the purpose of registration of the subject Society.

9. Insofar as the consequential direction sought for in this Writ Petition, namely, to permit "Tamaraikarai Tribal People Herbal Pasteurize Industries Co-operative Society" to sell the forest products is concerned, it cannot be decided at this stage. Only when the Society is registered, whether or not, the subject Society is entitled to sell the forest produce in the reserved forest will arise. As and when the subject Society is registered with the fourth respondent, the fifth respondent will consider the request of the subject society to sell the forest produce. In the counter affidavit filed by the fifth

respondent before this Court, the fifth respondent has contended that there are 6 existing Committees and therefore, there is no necessity for one more Committee representing Tribal interest in the reserved forest area. According to them, the petitioner does not have any right to sell the forest produce and therefore, the consequential direction sought for by the petitioner cannot be issued by this Court. However, the said issue is left open by this Court, as, only when the Society, to which the petitioner represents becomes a registered Society, that issue will arise. Therefore, this Court is inclined to consider the first part of the prayer in this Writ Petition and as regards the consequential prayer, the said issue is left open for the fifth respondent to take care as and when any such representation is given by the petitioner, at a later date, after the Society is registered.

10. For the foregoing reasons, this Court directs the petitioner to produce all the required documents as stipulated under the Tamil Nadu Co-operative Societies Act, 1983 and its Rules with the fourth respondent to enable the fourth respondent to register the Society, namely, "Tamaraikarai Tribal People Herbal Pasteurize Industries Co-operative Society", within a period of four weeks from the date of receipt of a copy of this order. On receipt of the required documents, the fourth respondent shall register the said Society, within a period of eight weeks thereafter. Insofar as the consequential prayer sought for by the petitioner, namely, to sell forest produce from Bargur and Andhiyur Forest range is concerned, the said issue is left open and the petitioner is granted liberty to make a request with the fifth respondent for the said purpose once the Society is registered.

11. With the aforesaid directions, the writ petition stands disposed of. No costs. Consequently connected miscellaneous petition is closed.

सत्यमेव जयते

Sd/-

Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

o

1. The Secretary,
Government of Tamil Nadu,
Tribal Welfare Department,
Chepauk, Chennai - 9.

2. The Principal Secretary,
Government of Tamil Nadu,
Industries Commissioner and
Director of Industries and Commerce,
Chepauk, Chennai - 5.

3. The District Collector,
Collectorate, Erode and District.

4. The Assistant Director
(Industries Co-operative),
District Industries Centre,
Erode and District.

5. The District Forest Officer,
DFO Office, Erode District

+1 cc to Mr.S.V.Vijay Prashanth Special Government Pleader
(Forest) sr232

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