



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
16.04.2021	23.04.2021

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CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD) No.901 of 2021

and

W.M.P. (MD) No.759 of 2021

A.Sunil Kumar

... Petitioner

-vs-

1.The District Collector
Kanyakumari District
Nagercoil

2.The Revenue Division Officer
Padmanabhapuram Revenue Division
Thuckalay, Kanyakumari District

3.The Tahasildar
Vilavancode Taluk
Kuzhithurai, Kanyakumari District

4.The Scheduled Caste and
Scheduled Tribe Welfare Officer
Kanyakumari District
Nagercoil

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for records pertaining to the proceedings of the first respondent in Na.Ka.No.J4/21110/2010, dated 16.10.2012 to extent it is related to the petitioner's case and J4/30978/2013, dated 02.07.2017, proceedings of the third respondent in Na.Ka.A5/7966/2017, dated 14.06.2017 and proceedings of the second respondent in Na.Ka.No.A3/4155/2017, dated 13.07.2018, and quash the same and consequently direct the third respondent to issue community certificates to petitioner's daughters Ms.Karthika and Ms.Snehamol.



For Petitioner : Mr.M.P.Hariprasad

For Respondents : Mr.K.P.Krishnadass
Special Government Pleader

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O R D E R

T.S.SIVAGNANAM, J.

The writ petition filed by one Mr.A.Sunil Kumar is for issuance of a writ of certiorarified mandamus to quash the proceedings of the District Collector, Kanyakumari District / first respondent, dated 16.10.2012 insofar as it relates to the petitioner's case and the proceedings dated 02.07.2017; proceedings of the Tahsildar, Vilavancode Taluk / third respondent, dated 14.06.2017 and the proceedings of the Revenue Divisional Officer, Padmanabhapuram Revenue Division / second respondent, dated 13.07.2018 and for a consequential direction upon the Tahsildar, Vilavancode Taluk / third respondent to issue community certificates to the petitioner's daughters, namely, Ms.Karthika and Ms.Snehamol.

2. The petitioner, at present, is working as a Driver in the Tamil Nadu State Transport Corporation. He belongs to Hindu Sambavar Community and stated to have been following Hindu religion and his parents are also Hindus by birth. The petitioner's wife, who hails from Kerala, also follows Hindu religion since 09.08.1991. Accordingly, the petitioner's two daughters are also following Hindu religion since their birth. It is further submitted that even though the petitioner's wife was Sambavar Christian by birth, later she was converted to Hinduism since 09.08.1991 as per the Conversion Certificate No.9103, issued by Aryasamaj, Trivandrum, which is also published in the Government Gazette of the Kerala Government. The petitioner states that he has been actively taking part in all activities and festivals conducted in Sri Mutharamman Kovil, Kuzhivilai. The petitioner's elder daughter was born on 01.05.2001 and the younger was born on 14.01.2003 and both are undergoing their schooling in M.M.K.M.High School, Varuthattu, Kanyakumari District.

3. The petitioner further states that a community certificate has been issued to him, his father, mother and brother and wife certifying that they belong to Scheduled Caste, his wife having been issued with community certificate from the Kerala Government, since she hails from the said State. Since the petitioner's daughters are undergoing their 9th Standard Schooling and they would require community certificate in the years to come for pursuing higher education, he filed an application dated 20.10.2016, to the third respondent for issuance of community certificate for his two daughters. Since the application was not considered, the petitioner filed W.P.(MD) No.8680 of 2017 for a

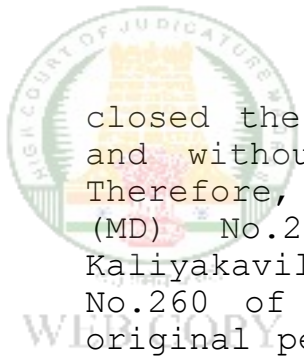


direction to the third respondent herein to issue community certificate to his daughters in accordance with the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976. The said writ petition was disposed of by the Division Bench vide order dated 28.04.2017 directing the third respondent herein to consider the application submitted by the petitioner, dated 20.10.2016, for issuance of community certificate for his daughters, within a period of three weeks from the date of receipt of a copy of this order. Since the direction issued in the said writ petition was not complied with, within the time frame stipulated, the petitioner filed Cont.P.(MD) No.1223 of 2017. When the contempt petition was heard, the third respondent herein produced an order dated 14.06.2017 stating that the application submitted by the petitioner, dated 20.10.2016 has been rejected on the ground that the petitioner and his family members have converted to Christianity and that they are visiting Churches etc. On account of the said stand taken by the third respondent, the contempt petition was closed by order dated 09.08.2017. The petitioner would further state that the reason assigned by the third respondent for rejecting his application for grant of community certificate for his daughters is absolutely incorrect and an outcome of *mala fides* due to certain reasons.

4. The petitioner would state that one Paulraj, son of Muthan Nadar, has been harbouring vengeance against the petitioner and he belongs to a majority community having property in the locality and he had blocked a common pathway, which was used by the people of the petitioner's community and in this connection, the petitioner had filed W.P.(MD) No.14303 of 2011 objecting to the construction of compound wall by the said Paulraj by encroaching a common pathway. The said writ petition was disposed of on 19.01.2012 by recording the statement of the Taluk Surveyor, Kalkulam, dated 09.01.2012 stating that there is no encroachment in the pathway in R.S.No.361 of Kulapuram Village, Vilavancode Taluk, Kanyakumari District.

5. The petitioner would further state that on 01.06.2011, the said Paulraj threatened and abused the petitioner and few others belonging to his community, who reside near his house, which necessitated a complaint to be lodged before Kaliyakavilai Police Station, which was registered in Crime No.260 of 2011, for the offence under Sections 294(b) and 506(i) I.P.C. and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short, "SC/ST Act"). The said Paulraj obtained an order of bail from the Special Court trying such cases in Tirunelveli District.

6. The petitioner would further state that the said Paulraj being an influential person prevailed upon the Police, who in turn,



closed the criminal case without any intimation to the petitioner and without filing a referred charge sheet before the Court. Therefore, the petitioner approached this Court and filed Crl.O.P. (MD) No.2025 of 2017 to direct the Inspector of Police, Kaliyakavilai Police Station, to complete the investigation in Crime No.260 of 2011 and file final report. When the said criminal original petition was heard, on behalf of the respondent - Police, it was submitted that the criminal case was closed as mistake of fact after a preliminary enquiry and that intimation in this regard was given and the petitioner's wife has received the same and an acknowledgement signed by the Village Administrative Officer was produced to show that the RC Notice No.11 of 2017 was affixed on the door of the petitioner's house. Therefore, the Court, by order dated 20.07.2017, closed the criminal original petition giving liberty to the petitioner to file appropriate petition, if any, and proceed further. Thereafter, the petitioner filed a protest petition before the learned Judicial Magistrate No.I, Kuzhithurai who dismissed the protest petition by order dated 20.08.2018. This order was challenged by the petitioner before this Court by filing Crl.R.C.(MD) No.605 of 2018 and this Court, by order dated 28.11.2018, set aside the order passed by the learned Judicial Magistrate as being perverse and directed the learned Judicial Magistrate to take the complaint on file and proceed with the matter in accordance with law. The said Paulraj had challenged the said order before the Honourable Supreme Court in Special Leave to Appeal (Crl.) No.3972 of 2019, which was dismissed by order dated 19.02.2021.

7. The petitioner would further submit that earlier the said Paulraj had filed a suit in O.S.No.17 of 2012, before the Sub Court, Kuzhithurai, praying for damages for malicious prosecution, which was dismissed by Judgment dated 11.06.2018, on the ground that the criminal prosecution initiated has not come to a logical end at the relevant point of time. These facts have been set out by the petitioner to support his case that at the instance and influence exerted by the said Paulraj, the application filed by the petitioner for grant of community for his daughters have been rejected by the third respondent on 14.06.2017 on an erroneous ground that the petitioner and his family have converted to Christianity. Aggrieved by the order passed by the third respondent rejecting the application for grant of community certificate, the petitioner preferred appeal before the second respondent on 04.09.2017. Since the appeal was kept pending, the petitioner once again approached this Court and filed W.P.(MD) No.23603 of 2017 to direct the second respondent herein to dispose of the appeal petition dated 04.09.2017 as expeditiously as possible. The said writ petition was disposed of by the Division Bench of this Court, by order dated 22.12.2017, directing the second respondent herein to dispose of the petitioner's appeal petition on merits and in accordance with law, after affording due opportunity to the parties, as expeditiously as



possible preferably within a period of three months from the date of receipt of a copy of the order. The second respondent, by order dated 13.07.2018, rejected the appeal petition.

8. The petitioner would further submit that aggrieved by the said order of rejection, he preferred a grievance petition before the first respondent, who rejected the grievance petition vide proceedings dated 02.07.2019. The petitioner would state that the perusal of the said proceedings creates suspicion and also doubts as regards signature of the District Scheduled Castes and Scheduled Tribes Welfare Officer etc. Thus, challenging the proceedings of the third respondent, dated 14.06.2017; proceedings of the second respondent, dated 13.07.2018 and the proceedings of the first respondent dated 02.07.2017 and 16.10.2012, this writ petition has been filed.

9. Mr.M.P.Hariprasad, learned counsel appearing for the petitioner, after elaborately referring to the facts, which we have set out about, submitted that the Deputy Tahsildar, in his report, dated 24.06.2011, stated that during enquiry, it came to light that the petitioner has been issued Hindu Sambavar community certificate, but, he has falsely stated that he did not produce the same during enquiry and that he refused to give statement. It is submitted that no official conducted any enquiry with the petitioner in connection with the said report, dated 24.06.2011 and even though it is stated that enquiry was conducted with the neighbours, the names of such persons have not been mentioned. Therefore, the report, dated 24.06.2011, is a false and concocted document.

10. It is further submitted by the learned counsel for the petitioner that a document apparently dated 16.10.2012 signed on behalf of the District Adi Dravidar and Tribal Welfare Officer, Nagercoil, repeats the false and concocted reports prepared by the revenue officials and even though the District Revenue Officer-cum-District Collector's designation is mentioned, his signature is not found in the document. In the said document even though the date is shown on the top of the record, below the District Adi Dravidar Officer's signature, the dates 04.07.2017 and 10.07.2017 are mentioned. This, according to the learned counsel, creates doubt on the genuineness of the said document.

11. Further, it is submitted by the learned counsel for the petitioner that even though it is mentioned that the said proceedings is that of the District Vigilance Committee under the Chairmanship of the District Collector, such Committee is empowered to enquire into the genuineness of a community certificate when complaints are made to the Police under the provisions of SC/ST Act. But, the competent Authority to issue community certificate is only the Tahsildar in terms of G.O.(Ms) No.147, Revenue [RA-3(2)]



Department, dated 17.03.2016.

12. Further, it is submitted by the learned counsel for the petitioner that no independent enquiry was conducted by the said Committee, while dealing with the petitioner's case, which is in Serial No.5 of the said proceedings and it has merely reiterated the stand taken by the Tahsildar. Therefore, it is contended that the said proceeding being not inconsonance with the procedures envisaged in G.O.(Ms) No.147, to the extent it relates to the petitioner's case in Serial No.5, is liable to be quashed.

13. The learned counsel for the petitioner would further submit that the order passed by the third respondent, dated 14.06.2017, rejecting the petitioner's application for community certificate for his daughters, is based on the reports of the Village Administrative Officer, Revenue Inspector and Deputy Tahsildar and these are all concocted and false reports prepared under the influential of the accused persons in Crime No.260 of 2011. That apart, there are several contradictions in the reports, which will clearly show that the reports are not genuine, but concocted. In one of the reports, the Village Administrative Officer states that the petitioner is visiting Churches and following Christianity and attempting to mislead the Authorities by keeping pictures of Hindu Gods in his house. Whereas, in another report of the Deputy Tahsildar, dated 24.06.2011, it is stated that there is no picture of Hindu and Christian Gods in the petitioner's house. Furthermore, though the report of the Village Administrative Officer, dated 09.06.2017, states that he had conducted enquiry with the local people, the names of the persons, who were enquired, were not disclosed. Further, it is submitted that a person can be said to have embraced Christianity only after he is baptized and there is no record or evidence placed by the Authorities that the petitioner and his family members were baptized by any Church. Therefore, the proceedings dated 14.06.2017 is liable to be set aside.

14. So far as the proceedings of the second respondent, dated 13.07.2018 and the proceedings of the District Vigilance Committee, dated 29.07.2011 and 16.10.2012, which are relied on by the second respondent in the order dated 13.07.2018, are concerned, it cannot be the basis for rejection of the petitioner's appeal as the proceedings of the District Vigilance Committee, insofar as it relates to the petitioner's case, is without jurisdiction and not in accordance with the directions issued in G.O.(Ms) No.147, dated 17.03.2016. Therefore, the second respondent being an Appellate Authority, while considering the appeal petition filed by the petitioner, could not have placed reliance on those reports of the Committee. Further, the second respondent being Appellate Authority is expected to apply his mind, whereas, without conducting any independent and impartial enquiry, merely reiterated the stand taken

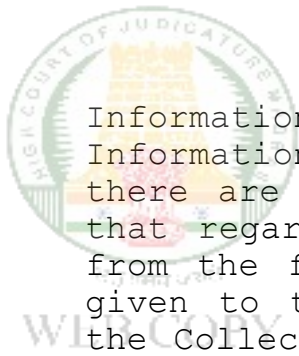


by the Tahsildar in his order rejecting the petitioner's application for grant of community certificates for his daughters.

15. It is further submitted by the learned counsel for the petitioner that the names of two persons, who are said to have been enquired, have been mentioned and those two persons are totally strangers and after the petitioner made enquiries, he came to know that those persons were close friends of the petitioner's opponent. Further, the names of those persons do not find place in the report of the Deputy Tahsildar, dated 24.06.2011, which will go to show that the same are subsequently included to show as if there is some genuinity. The petitioner had stated the truth before the second respondent that he continues to follow Hindu religion, but the second respondent mechanically dismissed the appeal petition and therefore, the order passed by the second respondent, dated 13.07.2018, is liable to be quashed. Further, it is submitted that though the impugned proceedings is dated 02.07.2017, the date shown in the signature of the Chairman of the Committee and two others is 02.07.2019, which raises a doubt as regards the genuinity. That apart, the proceeding are void *ab initio*, since it is not in terms of G.O.(Ms) No.235, Revenue Department, dated 26.06.2015. In terms of the said Government Order, the Issuing Authority for Scheduled Caste community certificate is Tahsildar, the Appellate Authority is the Revenue Divisional Officer and the Grievance Redressal Authority is the District Collector and in terms of the amendment issued by the Government in G.O.(Ms) No.147, dated 17.03.2016, the Issuing Authority for Scheduled Tribes is the Revenue Divisional Officer and the Appellate Authority is the District Collector and the State Level Scrutiny Committee is the Grievance Redressal Forum. Prior to the amendment issued in G.O.(Ms) No.147, dated 17.03.2016, the Grievance Redressal Authority for Scheduled Tribes was the District Collector and the Chairman, District Level Vigilance Committee. Therefore, it is submitted that the impugned order passed by the District Vigilance Committee is wholly without jurisdiction.

16. Further, it is submitted by the learned counsel for the petitioner that in the communication, dated 03.03.2015 received from the office of the third respondent, it has been mentioned that two persons, by name, Sundarraaj and Pushpakumaran have stated that the petitioner is following Christianity and one among the two, namely, Sundarraaj is the brother of the accused in crime No.260 of 2011 and the other person is the employee-cum-estate manager of the said accused. Therefore, it is submitted that the Revenue Authority could not have relied upon any such statement, which are tainted with *mala fide*.

17. The learned counsel for the petitioner would further submit that since there was an allegation that the petitioner was a member of a Church, he had sought information under the Right to



Information Act, by petition dated 18.03.2015, for which, the Information Officer sent a reply, dated 24.03.2015 stating that there are no details available in the office of the Tahsildar in that regard. Further, it is submitted that in the communication from the fourth respondent, dated 16.07.2015, which is a response given to the petitioner's earlier grievance petition addressed to the Collector on 11.06.2015, curiously a copy of the communication has been marked to the said Paulraj, accused in the criminal case, which will go to show that there is nexus between the Authority and the accused in the criminal case, who is said to have prevailed upon the Authorities to somehow reject the petitioner's application for grant of community certificates for his daughters. Thus, it is submitted that except the petitioner's daughters, all other members of their family, including the petitioner, were issued with community certificates and therefore, there is no justifiable reason to deny the community certificates to the petitioners's daughters. On these grounds, the learned counsel for the petitioner sought for setting aside the impugned orders and issuing a direction to the third respondent to issue community certificates to his daughters certifying that they belong to Hindu Sambavar community, a Scheduled Caste community.

18. Mr.K.P.Krishnadass, learned Special Government Pleader, appearing for the respondents, sought to sustain the impugned orders by submitting that as against the order passed by the District Level Vigilance Committee, the petitioner has a remedy of appeal before the State Level Vigilance Committee and without exhausting such appeal remedy, the petitioner cannot file a writ petition challenging the rejection of the application for grant of community certificate.

19. Further, it is submitted that though the petitioner was communicated with the order passed by the District Level Vigilance Committee rejecting the petitioner's appeal, instead of challenging the same, he filed a petition before the Sub Collector, Padmanabhapuram, who passed an order on 13.07.2018 rejecting the petitioner's representation / petition. Further, it is submitted that the Authorities have conducted enquiry and found that the petitioner and his family members have embraced Christianity and the claim made by the petitioner for issuance of community certificates for his daughters certifying that they belong to Scheduled Caste community is a false claim.

20. Further, it is submitted that the District Level Vigilance Committee under the Chairmanship of the District Collector is the Competent Authority to pass the impugned order and it is incorrect to state that the said order is without jurisdiction. Therefore, it is submitted by the learned Special Government Pleader that the writ petition may be dismissed and the orders passed



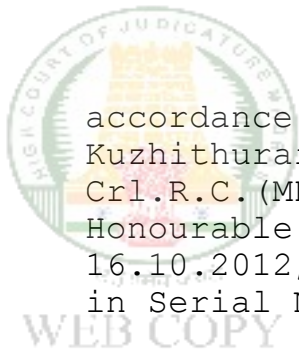
rejecting the petitioner's application for grant of community certificates for his daughters may be affirmed.

21. We have elaborately heard the learned counsel for the parties and carefully perused the materials placed on record.

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22. The petitioner has impugned three proceedings in this writ petition. The first of which is the proceedings dated 16.10.2012 of a Committee under the Chairmanship of the District Collector, Kanyakumari District at Nagercoil, to enquire and submit findings with regard to the complaints received under the provisions of SC/ST Act. The petitioner has challenged the said order insofar as it relates to serial No.5 therein, which refers to the finding, which was recorded when the complaint given by the petitioner before the Inspector of Police, Kaliakavilai Police Station in Crime No.260 of 2011 was referred to the Committee. In the said order, it has been averred that though the petitioner has been issued with community certificate certifying that he belongs to Hindu Sambavar community, but he is practising Christianity and therefore, the complaint is devoid of truth. In our considered view, the proceedings dated 16.10.2012 is entirely relating to a different issue and cannot be a basis for rejection of the petitioner's application for grant of community certificates for his daughters certifying that they belong to Hindu Sambavar Community. The said proceedings is summary in nature and a recommendation is given to the law enforcing agency, who have registered a case under the provisions of the SC/ST Act. Therefore, the respondents are not justified in referring to any observations made by the said Committee dated 16.10.2012, which not only deals with the case in Crime No.260 of 2011, but four other cases also relating to certain third parties, who are not concerning to the petitioner.

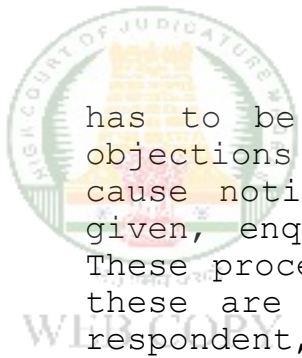
23. That apart, the criminal complaint lodged by the petitioner in Crime No.260 of 2011 against Paulraj was closed by the Police as mistake of fact. The protest petition filed by the petitioner before the learned Judicial Magistrate No.I, Kuzhithurai, was rejected by order dated 20.08.2018. The said order was set aside by this Court in CrI.R.C.(MD) No.605 of 2018, vide order dated 28.11.2018 as being perverse and the learned Judicial Magistrate was directed to take the complaint on file and proceed with the matter in accordance with law. The accused Paulraj filed a Special Leave to Appeal (CrI.) No.3972 of 2019, before the Honourable Supreme Court challenging the order dated 28.11.2018 in CrI.R.C.(MD) No.605 of 2018, which was dismissed by the Honourable Supreme Court on 19.02.2021. In the light of the subsequent developments, the findings rendered by the said Committee in its proceedings dated 16.10.2012 insofar as it relates to Crime No.260 of 2011 in Serial No.5 therein have to be set aside as the case has to be tried in



accordance with law by the learned Judicial Magistrate No.I, Kuzhithurai, pursuant to the directions issued by this Court in CrI.R.C.(MD) No.605 of 2018, which order has been affirmed by the Honourable Supreme Court. Therefore, the proceedings dated 16.10.2012, insofar as it relates to Crime No.260 of 2011 dealt with in Serial No.5 of the proceedings is quashed.

24. The second impugned order in the writ petition is the proceedings of the third respondent dated 14.06.2017, rejecting the petitioner's application for grant of community certificate for his daughters. The said order, while rejecting the petitioner's application, has merely followed the proceedings of the Committee under the Chairmanship of the District Collector, Kanyakumari District at Nagercoil, dated 16.10.2012, which has been quashed by us for the reasons assigned in the preceding paragraphs. Apart from that, the Tahsildar would state that pursuant to the directions issued by this Court in a writ petition filed by the petitioner in W.P.(MD) No.8680 of 2017, dated 28.04.2017, a discreet enquiry was conducted and in the course of the said discreet enquiry, it was affirmed that the petitioner is following Christianity and therefore, community certificates for his daughters certifying that they belong to Hindu Sambavar community cannot be issued. As pointed out earlier, the Tahsildar, while considering the application, should have examined the matter independently and could not have been swayed by the observations made in the proceedings dated 16.10.2012, which is the Committee constituted for the cases registered under the provisions of SC/ST Act to submit their recommendations to the Police, who have registered the criminal case. In any event, the said proceedings, dated 16.10.2012, is summary in nature and without notice to the petitioner and without conducting enquiry with the petitioner. Therefore, the Tahsildar committed a serious error in referring to the said proceedings as one of the grounds to reject the petitioner's application. In any event, we have quashed the said proceedings dated 16.10.2012.

25. The second reason given by the Tahsildar for rejection of the community certificate is by referring to a discreet enquiry, which was conducted. The impugned order, dated 14.06.2017, does not disclose as to when and with whom, the discreet enquiry was conducted, what are the statements, which were recorded and whether the petitioner was put on notice about such statement, whether the petitioner was given an opportunity to rebut any adverse materials, which were surfaced during the discreet enquiry etc. Therefore, the rejection of the application for community certificates for the petitioners's daughters could not have been based on a discreet enquiry, because a discreet enquiry can be a fact finding enquiry and if according to the Authorities certain facts have come to light in the discreet enquiry, then the person aggrieved is entitled to an opportunity to give his explanation and thereafter only the matter

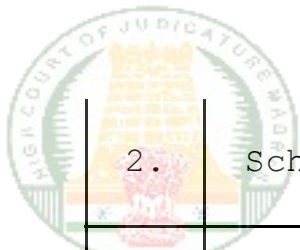


has to be dealt with in accordance with law by considering the objections and if the objections are not satisfactory, then a show-cause notice is required to be issued, further opportunity to be given, enquiry to be conducted and then decision is to be taken. These procedures admittedly have not been followed in this case and these are all sufficient to quash the order passed by the third respondent, dated 14.06.2017.

26. The third impugned order is stated to be dated 02.07.2017, which is the proceedings of the District Level Vigilance Committee (Scheduled Caste), Kanyakumari District at Nagercoil, in proceedings No.J4/30978/2013. In the said proceedings, the Chairman, District Vigilance Committee & District Collector, Kanyakumari; Member Secretary, Vigilance Committee & District Adi Dravidar and Tribal Welfare Officer, Kanyakumari and Anthropologist-cum-Member, District Vigilance Committee, Department of Anthropoloty, University of Madras, Chennai-600 005, have signed. As mentioned above, the proceedings is dated 02.07.2017, but the three officials have signed the proceedings on 02.07.2019. This gives a lot of rooms of suspicion as mentioned by the learned counsel for the petitioner during the course of argument. However, we need not to go into the said aspect as we are required to examine whether the District Level Vigilance Committee had jurisdiction to pass the impugned order dated 02.07.2017 (02.07.2019).

27. The learned Special Government Pleader would submit that in respect of the grievances expressed when the applications for grant of Scheduled Caste community are rejected, the District Level Vigilance Committee is the competent Authority to decide the matter and if the petition is rejected by the said Committed, the aggrieved person is entitled to file a further appeal to the State Level Scrutiny Committee. This submission made on behalf of the respondents is wholly incorrect for the reason that G.O.(Ms) No.235, Revenue Department, dated 26.06.2015, was issued providing Appellate Authority and Grievance Redressal Authority for Backward Class, Most Backward Class, Denotified Communities and Scheduled Castes and Scheduled Tribes. The Issuing Authority, Appellate Authority and Grievance Redressal Authority, in terms of G.O.(Ms) No.235, dated 26.06.2015, are as follows:

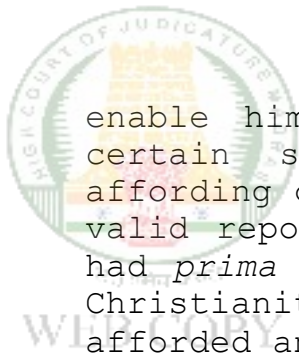
Sl.N o.	Community	Issuing Authority	Appellate Authority	Redressal of Grievances
1	Backward Classes / Most Backward Classes / Denotified Communities	Zonal Deputy Tahsildar	Tahsildar	District Collector



2.	Scheduled Castes	Tahsildar	Revenue Divisional Officer	District Collector
3.	Scheduled Tribes	Revenue Divisional Officer	District Collector	District Collector & Chairman District Level Vigilance Committee

28. In terms of the above Government Order, the Issuing Authority for Scheduled Castes community is the Tahsildar, the Appellate Authority is the Revenue Divisional Officer and the Grievance Redressal Authority is the District Collector. So far as the Scheduled Tribes are concerned, the Issuing Authority is the Revenue Divisional Officer, the Appellant Authority is the District Collector and the Grievance Redressal Authority is the District Collector & Chairman District Level Vigilance Committee. The said G.O.(Ms) No.235, dated 26.06.2015, was amended by G.O.(Ms) No.147, dated 17.03.2016, only in respect of providing a change in the Grievance Redressal Authorities in respect of Scheduled Tribes alone by conferring the said power to the State Level Scrutiny Committee. Therefore, the impugned order dated 02.07.2017 (02.07.2019) issued by the District Level Vigilance Committee is without jurisdiction. This would be enough to quash the said order. However, since arguments were advanced on either side on the merits of the matter, we have examined the correctness of the order passed by the District Level Vigilance Committee.

29. The impugned order dated 02.07.2017 (02.07.2019) records that the petitioner appeared before the Committee for enquiry and he had produced a copy of the community certificate issued to him by the Tahsildar, Vilavancode Taluk; copy of the community certificate of his mother, copy of S.S.L.C.certificate of his brothers and transfer certificate. The Committee does not express anything on those documents, but has gone merely by the opinion of Anthropologist, Member of the Committee, stating that the unique customs, cultural aspects, traditional occupation of the individual and Genealogical root are that of Christian Sambavar. Further, the Committee refers to a report of the Sub Collector, Padmanabhapuram, dated 13.07.2018 and proceeds to reject the claim of the petitioner. The basis for the Anthropologist's report is not forthcoming nor there is nothing on record to indicate that the petitioner had an opportunity to rebut the opinion of the Anthropologist. The report of the Sub Collector, Padmanabhapuram, dated 13.07.2018, is an unilateral report. The details of persons, who are stated to have given statement that the petitioner is professing Christianity, were not furnished to the petitioner to

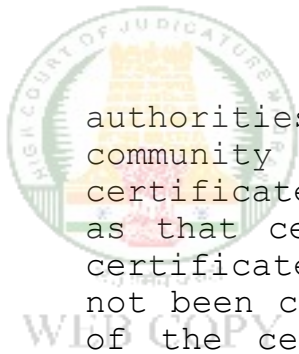


enable him to rebut the same. Thus, by unilaterally recording certain statements from certain third parties i.e., without affording opportunity to the petitioner, could not form a basis of a valid report. If during the course of enquiry, the Sub Collector had *prima facie* material to show that the petitioner is professing Christianity, then the petitioner should have been put on notice and afforded an opportunity to rebut such *prima facie* finding.

30. That apart, the report of the Sub Collector is dated 13.07.2018, which will clearly go to show that the impugned order of the District Level Vigilance Committee could not have been passed on 02.07.2017, more so, when the enquiry was conducted only on 02.07.2019 and on the same day, the Authorities have signed the order. Be that as it may, the petitioner was not aware that his petition would be considered for its admissibility based on the communication of the Sub Collector or with the opinion of the Anthropologist. Thus, there has been total violation of the procedures required to be followed while rejecting the appeal petition filed by the petitioner. As mentioned above, it is the District Collector, who alone, should have dealt with the appeal petition and the District Level Vigilance Committee is not the Grievance Redressal Authority for an applicant, who applies for Scheduled Caste community certificate.

31. Above all, the documents, which were produced by the petitioner, more particularly, the community certificate issued to the petitioner certifying that he belongs to Hindu Sambavar community has not been denied or disputed by any of the Authorities. Similarly, the community certificate issued to the petitioner's mother Chellamma, wife of Ayyappan has also not been denied. Equally, the community certificate issued to the petitioner's brother Suresh, son of Ayyappan, petitioner's service records certifying that he belongs to Hindu Sambavar community has also not been denied and the earliest of the document is the transfer certificate of the petitioner mentioning him as Hindu Sambavar community issued in the year 1993 - 1994. If such is the factual position, there would be no ground for the Authorities to deny for issuance of community certificate for the petitioner's daughters certifying that they belong to Hindu Sambavar community.

32. The above view is duly supported by the decision of the Honourable Supreme Court in the case of **State of Bihar and others vs. Sumit Anand [(2005) 12 SCC 248]**. The said decision was followed by the Honourable Division Bench in **M.R.Anand vs. The Chairman, T.N.State Level Scrutiny Committee and another [2011 (1) CWC 453]**, wherein it was held that when the father was issued with community certificate, the children should also have the same status and thereby, they are entitled to similar certificate of their father. In the said case, the grandfather had intimated the School



authorities that the petitioner therein belongs to a different community and it was held that this would not invalidate the certificate issued by the Competent Authority subsequently, so long as that certificate is not cancelled. In the said decision, the certificates issued in favour of the petitioner and his sister have not been cancelled and therefore, it was held that when genuineness of the certificates produced by the petitioner is sought to be verified, the Committee cannot ignore the certificates issued in favour of the father and sister of the petitioner therein. The legal principle set down in the said decision will equally apply to the facts of the present case. Admittedly, the certificates issued to the petitioner herein, his mother and brother are all valid, which show that they belong to Hindu Sambavar community. Therefore, the petitioner's daughters are also entitled to their communal status being declared as Hindu Sambavar community, a Scheduled Caste community.

33. For all the above reasons, the writ petition is allowed and the proceedings of the District Collector, Kanyakumari District / first respondent, dated 16.10.2012 insofar as it relates to the petitioner's case and the proceedings dated 02.07.2017; proceedings of the Tahsildar, Vilavancode Taluk / third respondent, dated 14.06.2017 and the proceedings of the Revenue Divisional Officer, Padmanabhapuram Revenue Division / second respondent, dated 13.07.2018 are set aside and the Tahsildar, Vilavancode Taluk / third respondent is directed to issue community certificates to the petitioner's daughters, namely, Ms.Karthika and Ms.Snehamol, certifying that they belong to Hindu Sambavar community. This direction be complied with within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (WRITS)

// True Copy //

Sub Assistant Registrar(CS)

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



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To:

- 1.The District Collector,
Kanyakumari District,
Nagercoil.
- 2.The Revenue Division Officer,
Padmanabhapuram Revenue Division,
Thuckalay, Kanyakumari District.
- 3.The Tahasildar,
Vilavancode Taluk,
Kuzhithurai,
Kanyakumari District.
- 4.The Scheduled Caste and Scheduled
Tribe Welfare Officer,
Kanyakumari District,
Nagercoil.

1CC TO THE SPL GOVT PLEADER SR 17587

GS
05/05/2021
15P/6C

ORDER
IN
W.P. (MD) No.901 of 2021
and
W.M.P. (MD) No.759 of 2021
23.04.2021