



W.P.No.230 of 2022

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.230 of 2022
and
W.M.P.Nos.263, 264 & 15463 of 2022

J.Nagesh

...Petitioner

Vs.

1.The Chairman,
State Level Scrutiny Committee-II (FAC)/
Additional Secretary to Government,
Adi Dravidar & Tribal Welfare Department,
Namakkal Kavignar Maligai, Secretariat,
Chennai – 600 009.

2.The General Manager,
Southern Railway,
Chennai – 600 003.

3.A.S.Mohanram,
Deputy Conservator of Forest,
Member Secretary (F.A.C),
State Level Scrutiny Committee – II,
Adi Dravidar & Tribal Welfare Department,
Chennai – 600 009.

..Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorarified Mandamus, calling for the records relating to order of the 1st respondent made in Proceedings No.5679/CV-3(1)/2017-20 dated 29.12.2021, to quash the same and to consequently direct the respondents to treat the community certificate of the petitioner of belonging to Hindu Kattunaikken Community as genuine and to extend all benefits both service and monetary.

For Petitioner : Mr.L.Chandrakumar

For Respondent : Ms.C.Sangamithirai

Special Government Pleader for R1

Mr.P.T.Ramkumar, Standing Counsel for R2

R3 – Served – No Appearance

ORDER

(Order of the Court was made by R.SUBRAMANIAN, J.)

Challenge in the Writ Petition is to the order of the State Level Scrutiny Committe dated 29.12.2021 concluding that the community certificate issued to the petitioner, certifying that he belongs to Hindu Kattunaikken, a Scheduled Tribale is not genuine.

2.The father of the petitioner, Janakiraman was favoured with a certificate to the effect that he belongs to Hindu Kattunaicken, a Scheduled



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Tribe community on 07.07.1954. Subsequently, the Tahsildar, Trichy granted a certificate to the same effect to the petitioner on 31.10.1975.

Based on that certificate, the petitioner was appointed as Apprentice Chargeman with Railways under the quota reserved for Schedule Tribe. Thereafter, the petitioner was required to produce a fresh community certificate and the petitioner also obliged by proceeding a community certificate issued by the Revenue Divisional Officer, Trichy on 12.05.1989. The said certificate was sought to be verified by the employer and the same was required to be done by the Revenue Divisional Officer. The Revenue Divisional Officer, Trichy passed an order on 08.11.2011 concluding that the claim is not genuine.

3.The petitioner filed W.P.No.19073 of 2012, challenging the said report of the Revenue Divisional Officer. This Court on 06.01.2014 set aside the order along with a charge memo issued by the 2nd respondent based on the order of the Revenue Divisional Officer dated 08.11.2011 and directed the State Level Scrutiny Committee to verify the community certificate and pass orders. There upon, the State Level Scrutiny Committee



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verified the certificate and by order dated 03.12.2014 concluded that the claim of the petitioner that he belongs to Kattunaicken community is genuine and directed him to apply afresh for a certificate. Upon such direction, the petitioner applied for a fresh certificate and was favoured with a fresh certificate on 17.06.2015. The order of the State Level Scrutiny Committee dated 03.12.2014 upholding the claim of the petitioner was put to challenge by a 3rd party in W.P.No.4408 of 2015.

4.The main contention that was raised was that the State Level Scrutiny Committee has not followed the procedure prescribed in **Kumari Madhuri Patil Vs. the Additional Commissioner, Tribal Welfare** reported in 1994 (6) SCC 241 and in **Dayaram Vs. Sudhir Batham and Others** reported in (2012) 1 SCC 333. A Division Bench of this Court without going into the maintainability of the petition at the instance of a 3rd party found that, since the procedure prescribed by the Hon'ble Supreme Court had not been followed, the orders are liable to be set aside. The Division Bench, thus, remanded the matter to the State Level Scrutiny Committee for further consideration, after obtaining a report from the Anthropologist and



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the District Level Vigilance Cell. Pursuant to the said order, a reference was made to Anthropologist as well as the District Level Vigilance Cell. Both the Anthropologist and the District Level Vigilance Cell concluded that the claim of the petitioner that he belongs to Kattunaikken community is genuine.

5.The State Level Scrutiny Committee however, conducted an enquiry thereafter, and based on wholly irrelevant material, overlooking the specific directions of this Court concluded that the claim of the petitioner that he belongs to Hindu Kattunaikken, a Scheduled Tribe community is not genuine. Hence, the petitioner is forced to approach this Court once again.

6.As of today, the functions of the State Level Scrutiny Committee and the procedure to be followed by the State Level Scrutiny Committee are well laid out both by the Hon'ble Supreme Court and this Court. This Court in **G.Venkitasamy and another Vs. the Chairman, State Level Scrutiny Committee**, after exhaustive analysis of the provisions of various Government orders as well as the judgment of the Hon'ble Supreme Court in Kumari Madhuri Patil has concluded as follows:-



29.From the aforestated analysis, it is manifest that the authorities are required to investigate, identify and conduct the enquiry in the following manner:

i)The authority competent to issue the community certificate, on receipt of the application, shall investigate the application in an open and transparent fashion, affording opportunity of hearing.

ii)The candidate shall have full liberty to explain the documents placed by him or collected by the investigating agency and he shall have opportunity to cross examine the witnesses, if required. The entire exercise shall be completed at the earliest, preferably, within a period of three months.

iii)On receipt of the community certificate issued by the competent authority, the candidate or any other party interested therein may refer the matter to the State Level Scrutiny Committee for verification.

iv)On receipt of the application for verification, the State Level Scrutiny Committee shall refer the matter to the Vigilance Cell for enquiry.

v)The Vigilance Cell, as constituted, shall investigate into the social status claim of the applicant, visiting the local place of residence and original place from which the candidate hails and usually resides. The Vigilance Officer, assisted by the Inspector of Police, shall verify all the documents and



collect relevant facts in an open and transparent manner from all the relevant places such as school, locality, etc. and persons such as parents and close relatives and also examine the school officials, parents/guardians and other close relatives of the concerned caste. The Vigilance Cell shall also record the anthropological and ethnological traits and rituals, customs, mode of marriage and other ceremonies of the community claimed by the candidate. Thereafter, on receipt of explanation from the candidate, on a proper examination of the same, a reasoned report shall be submitted to the State Level Scrutiny Committee.

*vi) The State Level Scrutiny Committee, on receipt of the Vigilance Cell report, if it is found adverse, shall issue a show cause notice to the candidate with a copy of the report and all the documents submitted by the Vigilance Cell to the concerned candidate, calling upon him to file his reply/explanation/representation and also express his intention to examine witnesses, if necessary. **In the event, the report supports the claim of the candidate, the State Level Scrutiny Committee shall not proceed further, but, to pass the order.***

vii) The State Level Scrutiny Committee, on completion of the enquiry, shall send a copy of the proceedings/order to the candidate within a period of two weeks.



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viii) Such verification shall be completed within a period of two months, after receipt of the Vigilance Cell report, preferably, by day-to-day proceedings [See paragraph 13(9) of Kumari Madhuri Patil (supra)].

7.The conclusions of the Division Bench are in consonance with that of the Hon'ble Supreme Court in Dayaram's case reported in **2011 (6) SCC 192**. It is, thus, clear that once the District Level Vigilance Cell concludes that the claim of the petitioner is genuine, the State Level Scrutiny Committee has to accept it and it has no power to proceed with further enquiry unless it records are finding that the report is fraudulent. Our search for such reason in the order of the State Level Scrutiny Committee ends in vain. Almost all irrelevant material has been taken into account in support of such conclusion that the certificate is not genuine.

8.The instances pointed out by the Committee in its order in Paragraph 14 are matters, which have to be ignored while considering the claim of the communal status of a person. Certain wrong descriptions are bound to be there but, once the District Level Vigilance Cell had taken into



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account of these documents and had come to the conclusion that the claim is genuine, the State Level Scrutiny Committee cannot have a re-enquiry to conclude that the claim is not genuine.

9.It is clear to our mind that the State Level Scrutiny Committee has transgressed its powers and its conclusions or more in breach of the directions of this Court as well as the Hon'ble Supreme Court in matters relating to the verification of community certificates. We therefore, allow this Writ Petition and set aside the order of the State Level Scrutiny Committee. The certificate issued to the petitioner is held to be genuine. No costs. Consequently, connected miscellaneous petitions are closed. The employer will release the service benefits of the petitioner forthwith.

(R.S.M.,J.) (K.B.,J.)
28.11.2022

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Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

Note: Issue order copy on 30.11.2022.

9/11



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WEB COPY To:-

- 1.The Chairman,
State Level Scrutiny Committee-II (FAC)/
Additional Secretary to Government,
Adi Dravidar & Tribal Welfare Department,
Namakkal Kavignar Maligai, Secretariat,
Chennai – 600 009.
- 2.The General Manager,
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- 3.A.S.Mohanram,
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