



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.1861 of 2022

M.Sivakumar

... Petitioner

vs

1. The Tamil Nadu State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maligai,
Secretariat,
Chennai 600 009.
Rep. by its Chairman.

2. The Director,
Tribal Welfare Department,
Chepauk,
Chennai 600 005.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus, directing the respondents to proceed with the enquiry regarding genuineness of social status and verification of Kurichchan (ST) community certificate of the petitioner (Certificate No.380846), his wife P.Maheswari (Certificate No.380847) and his children viz. P.Gokullakshmi (Certificate No.380848), P.Jayaprathap (Certificate No.380849) issued by the Revenue Divisional Officer, Dharmapuri dated 08.08.2014 based upon the Vigilance Cell report in C.No.25/SJ&HR/Vigilance Cell/DPI/2017 dated 05.06.2018 and Anthropologist report dated 03.05.2018 within the time framed manner.

For Petitioner : Mr.S.Doraiswamy

For Respondents : Mr.K.V.Sajeev Kumar,
Special Government Pleader

ORDER

[Order of this Court was delivered by T.RAJA, J.]

The petitioner has come to this Court for issuance of writ of mandamus directing the respondents to proceed with the enquiry regarding genuineness of social status and verification of Kurichchan (ST) community certificate of the



petitioner (Certificate No.380846), his wife P.Maheswari (Certificate No.380847) and his children viz. P.Gokullakshmi (Certificate No.380848) and P.Jayaprathap (Certificate No.380849), issued by the Revenue Divisional Officer, Dharmapuri dated 08.08.2014, based upon the Vigilance Cell report in C.No.25/SJ&HR/Vigilance Cell/DPI/2017 dated 05.06.2018 and Anthropologist report dated 03.05.2018 within the time framed manner.

2.Learned counsel appearing for the petitioner submitted that the petitioner belongs to 'Kurichchan' Community, which is a Scheduled Tribe and he preferred an application to the Revenue Divisional Officer, Dharmapuri on 25.09.2010 requesting for issuance of community certificate to him, his wife Maheswari and his children. As there was no order, he filed a Writ Petition in W.P. No.11812 of 2011 for a direction to consider his application dated 16.02.2011 and this Court, by an Order dated 29.04.2011, directed the Revenue Divisional Officer, Dharmapuri to consider his representation within a period of three months, but on 22.09.2011, the Revenue Divisional Officer, has rejected the petitioner's application. Aggrieved thereby, he has filed another writ petition in W.P. No.23650 of 2011 and this Court by an order dated 13.12.2012, setting aside the order dated 22.09.2011 passed by the Revenue Divisional Officer, Dharmapuri, remanded the matter back to the Revenue Divisional Officer, Dharmapuri, after getting a report of an Anthropologist. Again the Revenue Divisional Officer, Dharmapuri rejected the claim on 20.07.2013. Against which the petitioner filed another writ petition in W.P. No.29136 of 2013 and this Court set aside the impugned order and remanded the matter back to the Revenue Divisional Officer, Dharmapuri, who was directed to get a report from any one of the Anthropologists and to submit a report as per the Government Order. Thereafter, an Anthropologist appointed by the Director of Tribal Welfare, has conducted the spot enquiry and submitted a report to the Revenue Divisional Officer, Dharmapuri stating that the petitioner and his family members belong to Kurichchan (ST) Community. Thereafter, on 08.08.2014, the Revenue Divisional Officer, Dharmapuri issued community certificate to the petitioner, his wife and his children, based upon the report of the Anthropologist. Thereafter, he preferred an application to the Revenue Divisional Officer, Dharmapuri on 22.08.2014 requesting to issue community certificate to his sisters and brothers. But the Revenue Divisional Officer, Dharmapuri by letter dated 22.09.2014 informed that the community certificate of the petitioner, his wife and children were sent for verification and only after receipt of the report from the respondent, he would pass an appropriate order on his application. In the meanwhile, the respondents referred the matter to the Vigilance Cell, as per the Government Order in G.O. Ms. No.106, Adi Dravidar and Tribal Welfare Department dated 15.10.2012 and the Vigilance Cell, after getting a report from the Anthropologist, conducted a local enquiry and



found that his claim was genuine and given a report stating that the petitioner belongs to Kurichchan (ST) Community.

3. Learned counsel for the petitioner further submitted that once the Vigilance Cell submits a positive report to the first respondent Committee, as per guidelines of the Dayaram Case reported in 2011 (6) CTC 192, Kumari Madhuri Patil v. Additional Commissioner, Tribal Development reported in 1994 6 SCC 241 and G. Venkatasamy and another vs. The Chairman, State Level Scrutiny Committee reported in 2016-1-Law Weekly 289, a suitable order has to be passed in favour of the petitioner. Since no order is passed by the first respondent, the petitioner made a representation to the respondents on 13.09.2021 requesting to complete the enquiry regarding verification of community certificates issued by the Revenue Divisional Officer, Dharmapuri to the petitioner, his wife and children. As there was no response, the petitioner has been advised to come to this Court. Therefore, based on the vigilance report, surveying the community of the petitioner, his wife and his children, community certificates should be issued to his brothers and sisters.

4. Learned Special Government Pleader appearing for the respondents, opposing the above prayer, submitted that when the community status of the petitioner and his children were put to enquiry, the enquiry officers have come to the conclusion that they belong to Kurichchan Scheduled Tribe Community. But the petitioner's wife was at no point of time, subjected to any enquiry. Therefore, a detailed enquiry has to be conducted by the State Level Committee. Without any independent enquiry, which is going to be conducted against the petitioner and his family members, merely on the basis of the community certificate issued by the Vigilance Report Committee in favour of the petitioner and his family members, the petitioner's wife community cannot be accepted.

5. We also agree with the submission made by the learned Special Government Pleader appearing for the respondents. Since the petitioner's wife was not subjected to any enquiry, it is open to the State Level Committee to conduct the enquiry and take a final call. Four weeks' time is granted to conduct the enquiry. The petitioner and his family members are directed to co-operate with the enquiry to be conducted. Accordingly, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar



To

1. The Chairman,
The Tamil Nadu State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maligai,
Secretariat,
Chennai 600 009.

2. The Director,
Tribal Welfare Department,
Chepauk,
Chennai 600 005.

+1cc to Mr.S.Doraiswamy, Advocate SR. No. 8712

W.P.No.1861 of 2022

GPL (CO)
PR (25/02/2022)