



W.P.Nos.2828 & 5237

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.10.2022

DELIVERED ON : 25.11.2022

CORAM:

**THE HON'BLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HON'BLE MR.JUSTICE K. KUMARESH BABU**

**W.P.Nos.2828 & 5237 of 2022
and W.M.P.No.2968 of 2022**

E.Karthikeyan

... Petitioner in W.P.No.2828 of 2022

L.Elumalai
2022

... Petitioner in W.P.No.5237 of

Vs.

1.The Chairman

Tamil Nadu State Level Scrutiny Committee – III,
Adi Dravidar & Tribal Welfare Department,
Namakkal Kavignar Maligai,
Secretariat, Chennai – 600 009.

2.The District Collector,
Kanchipuram District,
Kanchipuram.

3.The Director,
Tribal Welfare,
Chepauk,
Chennai – 600 005.

4.The Deputy Superintendent of Police,
SC/ ST Vigilance Cell,



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Kanchipuram.

5.The Revenue Divisional Officer,
Madhuranthakam,
Chengalpet District.

... Respondents in both the W.Ps.

6.The Senior Superintendent of
Post Offices,
Chengalpet Division,
Chengalpattu – 603 001.

... Respondent in W.P.No.2828 of 2022

PRAYER in W.P.No.2828/2022: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari, calling for the records relating to the impugned proceedings No.6935/CV-4(1)/2017-7, dated 30.12.2021 on the file of the 1st respondent herein, quash the same.

PRAYER in W.P.No.5237/2022: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari, calling for the records relating to the impugned proceedings No.2509/CV-4(1)/2018-6, dated 20.10.2021 on the file of the 1st respondent herein, quash the same.

For Petitioner : Mr.Govi Gansesan (in both W.Ps)

For Respondents : Ms.C.Sangamithirai for RR1 to 5 (in both the W.Ps.)
Special Government Pleader

For Respondent : Mr.P.G.Santhosh Kumar for R6 (in W.P.No.2828 of 2022)



COMMON ORDER

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(Order of the court was delivered by K.Kumaresh Babu, J.)

The present Writ Petitions have been filed by the son and the father challenging the order of the 1st respondent herein holding that they do not belong to Hindu Kattunayakan, a Schedule Tribe community. A further direction has been issued in respect of the petitioner in W.P.No.2828 of 2022 to the employer of the petitioner therein to take stringent action against him as per the guidelines for obtaining a bogus community certificate by defrauding.

2.The brief facts of the case are that the petitioners herein being son and father made a claim that they belong to Hindu Kattunayakan community. The petitioner in W.P.No.2828 of 2022 had been issued with a community certificate declaring him to be a Hindu Kattunayakan, by the Thasildar Maduranthakam on 03.10.1988 genuineness of which was sought to be verified by the 1st respondent herein. As regards Petitioner in W.P.No.5237 of 2022 is concerned, he had made an application for a community certificate declaring him as Hindu Kattunayakan community which was rejected by the 1st respondent herein. With regard to the petitioner in W.P.No.2828 of 2022,



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the Deputy Superintendent of Police, SC/ ST Vigilance Cell, Kancheepuram, in his report dated 17.07.2019 has after enquiry had given a recommendation that the certificate issued in favour of the petitioner therein was genuine. The Anthropologist had taken a different view. The Revenue Divisional Officer, Madhuranthakam in his report dated 14.01.2016 had stated that the community certificate issued to the petitioner from their office is genuine. However, the State Level Scrutiny Committee, the 1st respondent herein had held that the certificate issued is not genuine based upon the rejection of the claim of the petitioner's father who is the Writ Petitioner in W.P.No.5237 of 2022 and had directed cancellation of the said community certificate and further had also directed the 6th respondent herein to take stringent action for obtaining a bogus community certificate.

3. With regard to W.P.No.5237 of 2022, the petitioner had made an application seeking a community certificate. In this case, the Deputy Superintendent of Police, SC/ ST Vigilance Cell, Chennai region had submitted an enquiry report holding that the claim of the petitioner therein is not genuine. The Anthropologist had also submitted a similar report. Thereafter, the 1st respondent herein had rejected the claim of the petitioner



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by its order dated 08.12.2016. Being aggrieved against the same, the petitioner therein had filed W.P.No.10531 of 2017 before this Court and this Court by order dated 20.11.2017 had set aside the order dated 08.12.2016 made by the 1st respondent and remanded the same with the following direction:-

“we allow the writ petition and set aside the impugned order in Proceedings No.18629/CV4(1)/2009-11, dated 08.12.2016 with the following directions:

i. The matter is remanded to the State Level Scrutiny Committee for fresh consideration.

ii. It is made clear that in case the State Level Scrutiny Committee seeks to rely on such statements, necessarily opportunity should be afforded to the petitioner to cross examine those witnesses. The cross examination should be conducted in the presence of the State Level Scrutiny Committee and such cross-examination should be an effective one. The State Level Scrutiny Committee must ensure the presence of the witnesses, so as to enable the petitioner to cross examine them on the very same day. In any case, the petitioner is not entitled to the assistance of lawyers for cross examination of witnesses.

iii. If the Committee is of the view that the issue can be decided even without reference to the deposition given by the witnesses, there is no need for summoning them. In such event, the



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Committee shall give an opportunity to the petitioner to produce documents in support of his claim and thereafter, decide the matter on merits and as per law.

iv. The petitioner is directed to co-operate with the State Level Scrutiny Committee for an early disposal of the matter. In case, the petitioner is prolonging the matter on one pretext or the other, it is open to the State Level Scrutiny Committee to decide the matter on the basis of available materials.

v. The above said exercise shall be completed within a period of three months from the date of receipt or production of a copy of this order.”

4.On remand, the case was taken up by the 1st respondent and the 1st respondent had held that the individual had not produced any valid documents to substantiate his community claim and on that basis had rejected his request.

5.The Writ Petitions have been taken together as the petitioners in these cases are son and the father.

6.Heard Mr.Govi Ganesan, learned counsel for the petitioner and Mrs.C.Sangamithirai, learned Government Pleader for respondents 1 to 5 in



both the Writ Petitions and Mr.P.G.Santhosh Kumar, learned counsel appearing for the 6th respondent in W.P.No.2828 of 2022.

7.Mr.Govi Ganesan, learned counsel appearing on behalf of the petitioner would, at the outset submit that this is a classic case where the functioning of the 1st respondent would clearly establish that it functions in an arbitrary manner and also prove that the 1st respondent does not adhere to the directions issued by the Hon'ble Apex court in ***Kumari Madhuri Patil & Another Vs. Additional Commissioner, Tribal Development and Others*** (reported in ***1994 (6) SCC 241***) which has been approved in ***Dayaram Vs Sudhir Bathem & Others*** (reported in ***(2012) 1 SCC 333***). This Court had also reiterated the directions issued by the Hon'ble Apex Court in the case of ***G.Venkitasamy and Another Vs The Chairman, State Level Scrutiny Committee*** (reported in ***2016 (1) CTC 647***). According to him, the State Level Scrutiny Committee in one case had directed the Vigilance cell of Chennai region to enquire into the matter and in another case, it has deputed the Vigilance Cell of the Kancheepuram region. The reports submitted by both the authorities are diametrically opposite. Whereas Vigilance Cell Kancheepuram region after an elaborate enquiry had submitted that the son



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belongs to Hindu Kattunayakan, but on the other hand, the Vigilance cell of the Chennai region had held that the father does not belong to Hindu Kattunayakan community.

8.He would draw the attention of this Court to the report of the Deputy Superintendent of Police, SC/ ST Vigilance Cell, in respect of the petitioner in W.P.No.2828 of 2022. The Vigilance Officer had submitted a detailed report after enquiring about 10 witnesses and referring to about 22 documents. The said report had also relied upon the community certificate issued to one V.Ramasamy, which was also verified. That apart the said Ramasamy had also been appointed by the Government in a Committee for finding the Tribal communities in the State of Tamil Nadu under G.O.Ms.No.8, Adi Dravida and Tribes Welfare Department dated 02.02.2018. Against the name of the said V.Ramasamy, his community is indicated as Kattunayakan Community. He also drew the attention of this Court to state that the said V.Ramasamy is a blood relative being paternal uncle's son of the petitioner in W.P.No.2828 of 2022 and the brother's son of the petitioner in W.P.No.5237 of 2022. The Deputy Superintendent of Police, SC/ ST Vigilance Cell, have in detail recorded the various reasonings for his conclusions and after analysis of



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the documents collected, he had come to the conclusion that the certificate issued to the petitioner is genuine as he had confirmed that the community of the petitioner is Hindu Kattunayakan.

9.His main contention is that as per the directions issued by the Hon'ble Apex Court which has been followed by this Court and adopted by the Government by issuing G.O.(Ms).No.106 Adi Dravidar and Tribal Welfare Department dated 15.10.2012, when the report from the Vigilance Cell is in favour of the concerned person whose community is sought to be verified, then it has been directed that no further action need to be taken except whether the report or the particulars given or produced are found to be fraudulently obtained, then it would be open to the 1st respondent committee to enquire after proper notice. According to him, in this case, in spite of the report in favour of the petitioner in W.P.No.2828 of 2022, the 1st respondent without assigning any reasons whatsoever as to how it found the report to be false or fraudulently obtained had simply rejected the claim of the petitioner on the basis of the rejection of the claim of his father who is the petitioner in W.P.No.5237 of 2022.



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10.As regards to the Writ Petitioner in W.P.No.5237 of 2022, he would contend that this is the second round of litigation and in the earlier round this Court has set aside the order passed and had directed the State Level Scrutiny Committee to afford necessary opportunity to cross-examine the witnesses and the same should also be an effective one. The further direction is that if the committee is of the view that the issue can be decided even without reference to the depositions, then there is no need to summon them. But the committee shall give an opportunity to the petitioner to produce documents. He would further contend that the 1st respondent in a very cryptic order without assigning any reasons had called upon the petitioner to produce the birth records of himself and his relatives from the Revenue Divisional Officer/ the concerned Deputy Superintendent of Police, SC/ ST Vigilance Cell for finalising the case. It had also taken into account all the records/ documents which would include the adverse report of the Vigilance Cell. When the petitioner had reported that his birth certificate was not available and he had produced the birth certificate issued in favour of his sister it was brushed aside as it does not support his case. Then again at the request of the petitioner an enquiry was to be conducted on 20.09.2021. But no such enquiry was held. But the impugned order has recorded that the petitioner



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has not produced any valid documents to substantiate his claim. It also further held that the Anthropologist had given a report that he was not able to explain the rituals of the community which had been followed by them. According to him, the said procedure followed by the 1st respondent Committee is in violation of the orders passed by the Hon'ble Apex Court as well as this Court and adopted by the Government.

11.He would submit that the procedure adopted by the respondent State Level Scrutiny committee in nominating two different Vigilance Cells for the father and son is itself erroneous. Further, he would claim that the Anthropologist has not made any detailed report. The Anthropologist had extracted how a persons community could be traced and had reported that the petitioner was not able to express his culture in a patterned form and there was no congruence in his narrative with culture of the claimed community. He would further submit that since the petitioner's family had migrated more than four or five decades ago from their native place and had settled in a different region, there would be a break in cultural and ritual practices for the convenience of the family. For example one of the traits of the Hindu Kattunayakan community is nomadic/ semi nomadic people, close contact



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with the forest, folk songs, etc., After migration and having settled for a better living the nomadic/ semi nomadic style could not be followed and they have come far away where their closeness to forest and rituals attached would definitely have diminished or changed.

12.He further relied upon a Division Bench judgment of this Court in W.P.No.22504 of 2015 and contended that the cultural Report submitted by the Anthropologist cannot be conclusive and final proof, the same could be a material document while considering the claim of the person concerned and therefore, he would submit that the reliance placed upon by the first respondent Committee solely on the Report of the Anthropologist is vitiated.

13.He would contend that a close blood relative namely the brother's son of the petitioner in W.P.No.5237 of 2022 who is the father of the petitioner in W.P.No.2828 of 2022, has been declared to be a Hindu Kattunayakan and the Government recognising his community has appointed him to a committee to find the schedule Tribes in the State of Tamil Nadu and his community in the Government order has been shown as Hindu Kattunayakan. Apart from this the Deputy Superintendent of Police, SC/ ST



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Vigilance Cell in respect of the petitioner in W.P.No.2828 of 2022 has given a detailed report as to how the petitioner therein belongs to Hindu Kattunayakan community. A complete go-by is given to the said findings. There is no finding that such a report is false or had been obtained fraudulently. If that be so, the 1st respondent being a fact finding authority to declare the genuineness of the certificate cannot go behind to the enquiry report of its own Vigilance Cell. This is the reason that the Hon'ble Apex Court as well as this Court have held that when the Vigilance Cell had given a favourable report the same should be adopted unless and until it is found to be false. Hence, he prays this court to interfere with the order passed by the 1st respondent and set aside the same.

14.Countering his arguments, Mrs.C.Sangamithirai would vehemently contend that the Anthropologist in both the cases had given a finding that the petitioners' claim is not genuine. She would further contend that the Vigilance Cell in respect of the petitioner in W.P.No.5237 of 2022 has given a finding that the claim of the petitioner therein is not genuine. She further contended that the petitioner in W.P.No.2828 of 2022 is the son of the petitioner in W.P.No.5237 of 2022. Hence, the report of the Vigilance Cell in the case of



the petitioner in W.P.No.2828 of 2022 is doubtful. She would contend that when the father was denied a community certificate by the 1st respondent, the son would not be entitled to it. She would further submit that the Vigilance Committee/ 1st respondent had not relied upon the Vigilance Report in the case of the father and therefore there was no question of examining any of the witnesses and therefore, the question of cross-examination would also not arise. As the father was not able to produce any valid proof of himself being a Hindu Kattunayakan, the 1st respondent was well within its right to reject his claim. When the claim of the father has been rejected on the ground that he does not belong to Hindu Kattunayakan Community then his family members namely his son would also not be entitled to such a certificate. Therefore, the 1st respondent was right in holding that the certificate issued to the son, who is the petitioner in W.P.No.2828 of 2022 is also not correct and is not genuine. Hence, she prayed that no interference is required and sought dismissal of the Writ Petitions.

15.Learned counsel appearing for the sixth respondent would reiterate



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the arguments made by Ms.C.Sangamithirai and contended that they will have to take action pursuant to the findings of the first respondent committee.

16.We have considered the arguments made by the counsel appearing on either side.

17.Before advertng to the merits of the case, we proposed to analyze the law on the subject in issue.

18.The Hon'ble Apex Court in a judgment reported in **1994 (6) SCC 241 (Kumari Madhuri Patil Vs. Addl. Commissioner, Tribal Welfare)** has laid down guidelines as to the verification of a community certificate that had been obtained by an individual. For better appreciation, the relevant guidelines as issued by the Hon'ble Apex Court is extracted hereunder:

1.The application for grant of social status certificate shall be made to the Revenue Sub-Divisional Officer and Deputy Collector or Deputy Commissioner and the certificate shall be issued by such officer rather than at the Officer, Taluk or Mandal level.

2.The parent, guardian or the candidate, as the case may be, shall file an affidavit duly sworn and attested by a competent gazetted officer or



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non-gazetted officer with particulars of castes and sub-castes, tribe, tribal community, parts or groups of tribes or tribal communities, the place from which he originally hails from and other particulars as may be prescribed by the Directorate concerned.

3.Application for verification of the caste certificate by the Scrutiny Committee shall be filed at least six months in advance before seeking admission into educational institution or an appointment to a post.

4.All the State Governments shall constitute a Committee of three officers, namely, (I) an Additional or Joint Secretary or any officer high-er in rank of the Director of the department concerned, (II) the Director, Social Welfare/Tribal Welfare/Backward Class Welfare, as the case may be, and (III) in the case of Scheduled Castes another officer who has intimate knowledge in the verification and issuance of the social status certificates. In the case of the Scheduled Tribes, the Research Officer who has intimate knowledge in identifying the tribes, tribal communities, parts of or groups of tribes or tribal communities.

5.Each Directorate should constitute a vigilance cell consisting of Senior Deputy Superintendent of Police in over-all charge and such number of Police Inspectors to investigate into the social status claims. The Inspector would go to the local place of residence and original place from which the candidate hails and usually resides or in case of migration to the town or city, the place from which he originally hailed from. The vigilance officer should personally verify and collect all the



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facts of the social status claimed by the candidate or the parent or guardian, as the case may be. He should also examine the school records, birth registration, if any. He should also examine the parent, guardian or the candidate in relation to their caste etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all particulars as envisaged in the pro forma, in particular, of the Scheduled Tribes relating to their peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. by the castes or tribes or tribal communities concerned etc.

6.The Director concerned, on receipt of the report from the vigilance officer if he found the claim for social status to be “not genuine” or ‘doubtful’ or spurious or falsely or wrongly claimed, the Director concerned should issue show-cause notice supplying a copy of the report of the vigilance officer to the candidate by a registered post with acknowledgement due or through the head of the educational institution concerned in which the candidate is studying or employed. The notice should indicate that the representation or reply, if any, would be made within two weeks from the date of the receipt of the notice and in no case on request not more than 30 days from the date of the receipt of the notice. In case, the candidate seeks for an opportunity of hearing and claims an inquiry to be made in that behalf, the Director on receipt of such representation/reply shall convene the committee and the Joint/Additional Secretary as Chairperson who shall give reasonable opportunity



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to the candidate/parent/guardian to adduce all evidence in support of their claim. A public notice by beat of drum or any other convenient mode may be published in the village or locality and if any person or association opposes such a claim, an opportunity to adduce evidence may be given to him/it. After giving such opportunity either in person or through counsel, the Committee may make such inquiry as it deems expedient and consider the claims vis-à-vis the objections raised by the candidate or opponent and pass an appropriate order with brief reasons in support thereof.

7.In case the report is in favour of the candidate and found to be genuine and true, no further action need be taken except where the report or the particulars given are procured or found to be false or fraudulently obtained and in the latter event the same procedure as is envisaged in para 6 be followed.

8.Notice contemplated in para 6 should be issued to the parents/guardian also in case candidate is minor to appear before the Committee with all evidence in his or their support of the claim for the social status certificates.

9.The inquiry should be completed as expeditiously as possible preferably by day-to-day proceedings within such period not exceeding two months. If after inquiry, the Caste Scrutiny Committee finds the claim to be false or spurious, they should pass an order cancelling the certificate issued and confiscate the same. It should communicate within one month from the date of the conclusion of the proceedings the result of enquiry



to the parent/guardian and the applicant.

10.In case of any delay in finalising the proceedings, and in the meanwhile the last date for admission into an educational institution or appointment to an officer post, is getting expired, the candidate be admitted by the Principal or such other authority competent in that behalf or appointed on the basis of the social status certificate already issued or an affidavit duly sworn by the parent/guardian/ candidate before the competent officer or non-official and such admission or appointment should be only provisional, subject to the result of the inquiry by the Scrutiny Committee.

11.The order passed by the Committee shall be final and conclusive only subject to the proceedings under Article 226 of the Constitution.

12.No suit or other proceedings before any other authority should lie.

13.The High Court would dispose of these cases as expeditiously as possible within a period of three months. In case, as per its procedure, the writ petition/miscellaneous petition/matter is disposed of by a Single Judge, then no further appeal would lie against that order to the Division Bench but subject to special leave under Article 136.

14.In case, the certificate obtained or social status claimed is found to be false, the parent/guardian/the candidate should be prosecuted for making false claim. If the prosecution ends in a conviction and sentence of



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the accused, it could be regarded as an offence involving moral turpitude, disqualification for elective posts or offices under the State or the Union or elections to any local body, legislature or Parliament.

15.As soon as the finding is recorded by the Scrutiny Committee holding that the certificate obtained was false, on its cancellation and confiscation simultaneously, it should be communicated to the educational institution concerned or the appointing authority by registered post with acknowledgement due with a request to cancel the admission or the appointment. The Principal etc. of the educational institution responsible for making the admission or the appointing authority, should cancel the admission/appointment without any further notice to the candidate and debar the candidate from further study or continue in office in a post.

19.The aforesaid guidelines were framed by the Hon'ble Apex Court to see that the constitutional objectives intended for the benefit and advancement of the genuine Scheduled Caste/Scheduled Tribe or Backward Classes as the case may be, are not defeated by unscrupulous persons. The ratio laid down by the Hon'ble Apex Court has been affirmed in another judgment of the Hon'ble Apex Court in **Dayaram's** case (reported in (2012) 1 SCC 333).



20. In another judgment of the Hon'ble Apex Court in **1995 (4) SCC 32, Director of Tribal Welfare, Government of A.P. Vs. Lavetigiri and Another**, the Hon'ble Apex Court has reiterated the guidelines laid down in **Kumari Madhuri Patil's** case (reported in **1994 (6) SCC 241**). The Hon'ble Apex Court has also reiterated that legislation with necessary guidelines and prescribing penal consequences on persons who flout the constitution and garner the benefits reserved for the real tribals should be enacted so that the menace of fabricating the records and to gain unconstitutional advantages by spurious persons could be prevented. In the State of Tamil Nadu, till date, no such legislation has come forth. However, the Government has issued Government Order in G.O.Ms.No.106, Adi Dravidar Tribal Welfare (CV I) Department dated 15.10.2012 framing the guidelines as to reiterating the directions issued in **Kumari Madhuri Patil's** case (**1994 (6) SCC 241**).

21. That apart it has also formed the Vigilance Cells throughout the State of Tamil Nadu. The said Government Order was reviewed by the Division Bench of this Court in **G.Venkitasamy Vs. The Chairman, State Level Scrutiny Committee** (reported in **2016 (1) CTC 647**), this Court felt that the said Government Order was not explicit and has issued certain



directions which are supplemental to the guidelines laid down in ***Kumari Madhuri Patil's*** case (reported in ***1994 (6) SCC 241***). For better appreciation, the relevant paragraphs of the said judgment are extracted hereunder:

27.The State Government, in G.O. (Ms.)No.106, Adi Dravidar and Tribal Welfare (CV I) Department dated 15 October 2012, has specified that on receipt of report from the Vigilance Officer, if it is found that the claim for social status is “not genuine” or “doubtful” or spurious or falsely or wrongly claimed, the State Level Scrutiny Committee should issue show cause notice supplying a copy of the report of the Vigilance Officer to the candidate.

28.The report indicated in the aforesaid Government Order is not explicit. When the Supreme Court, had categorically held, as aforestated, that the applicants are entitled to cross examine the witnesses and also are entitled to documents which form the basis for Vigilance report, it is clarified that the Vigilance report must enclose all the relevant documents which form the basis of such report, while supplying the same to the applicant with a show cause notice.

29.From the aforestated analysis, it is manifest that the



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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



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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.

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)].

22. Now coming to the facts of the present case, the petitioner in W.P.No.2828 of 2022 was issued a community certificate certifying him to be a Hindu Kattunayakan a Scheduled Tribe Community by the Tahsildar,



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Madhuranthakam on 03.10.1988. Based upon which, he had got appointed in the Postal Department under the Scheduled Tribe Community quota. The genuineness of the said certificate was verified by the first respondent. As mandated by the Hon'ble Apex Court in ***Kumari Madhuri Patil*** case (reported in ***1994 (6) SCC 241***), the first respondent has called for a Report from the fourth respondent, the Vigilance Cell, Kancheepuram District. The fourth respondent had submitted a report on 17.07.2019. The said report would conclude by saying that the petitioner's claim is genuine. A perusal of the said report would indicate that the Vigilance Cell had made a detailed enquiry as contemplated. There were various reasons assigned by the Vigilance Cell in coming to the conclusion that the claim of the petitioner was genuine. Two of the clinching reasons are that

(a) the paternal uncle's son V.Ramasamy has also been appointed for identifying Kattunayakan Tribes living in areas of Tiruvarur, Cuddalore, Madurai, Viruthu Nagar, Chennai and Kancheepuram District by proceedings of the Secretary to Adi Dravidar and Tribal Welfare Department dated 24.07.2013.



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(b) The said V.Ramasamy was also appointed as a member of the Tamil Nadu Tribal Welfare Committee by the Government of Tamil Nadu in G.O.Ms.No.08 Adi Dravidar and Tribal Welfare Department dated 02.02.2018 representing the Kattunayakan Community.

23.However, the Anthropologist had given an opinion that the petitioner's claim is not genuine. A perusal of the report would show that the reason based upon which the Anthropologist has arrived at such an opinion is that there was no congruence in his narrative of the culture that is being followed by him to suggest he belong to Hindu Kattunayakan. The said opinion, in our view, is not exhaustive and the report of the Anthropologist is contrary to the detailed analysis of the Vigilance Cell.

24.It is also further noted from the impugned order that the Revenue Divisional Officer, Madhuranthakam in his letter dated 14.01.2016 had certified that the certificate under verification has been issued from their office.



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25. In light of the aforesaid facts, we would proceed to analyze the impugned order in W.P.No.2828 of 2022. A perusal of the impugned order would show that there has been no application of mind on the part of the first respondent. The relevant paragraph of the impugned order is extracted hereunder:

10. During the State Level Scrutiny committee-III enquiry, the anthropologist/Member of the Committee enquired the individual's unique customs and cultural traits and has reported as follows:-

“The individual Thiru.E.Karthikeyan narrated his cultural aspects such as family, marriage, kinship and lifecycle ceremonies of the claiming community but it does not match with the traits of “Kattunayakan” Community. Also, the district level vigilance cell anthropologist conducted spot enquiry in the individual's native place and concluded that the individual does not belong to Kattunayakan community.

26. It is pertinent to note that the Hon'ble Apex Court in a judgment reported in **2012 (1) SCC 113** in **Anand vs. Committee for Scrutiny and Verification of Tribe Claims and Others**, has laid a parameter while dealing with the documentary evidence and also the report of the Anthropologist and



the affinity test. For better appreciation, the relevant paragraph is extracted hereunder:

22.It is manifest from the afore extracted paragraph that the genuineness of a caste claim has to be considered not only on a thorough examination of the documents submitted in support of the claim but also on the affinity test, which would include the anthropological and ethnological traits, etc., of the applicant. However, it is neither feasible nor desirable to lay down an absolute rule, which could be applied mechanically to examine a caste claim. Nevertheless, we feel that the following broad parameters could be kept in view while dealing with a caste claim:

(i)...

(ii) While applying the affinity test, which focuses on the ethnological connections with the Scheduled Tribe, a cautious approach has to be adopted. A few decades ago, when the tribes were somewhat immune to the cultural development happening around them, the affinity test could serve as a determinative factor. However, with the migrations, modernisation and contact with other communities, these communities tend to develop and adopt new traits which may not essentially match with the traditional characteristics of the tribe. Hence, the affinity test may not be regarded as a litmus test for establishing the link of the applicant with a Scheduled Tribe. Nevertheless, the claim by an applicant that he is a part of a Scheduled Tribe and is entitled to the benefit extended to that tribe, cannot per se be disregarded



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on the ground that his present traits do not match his tribe's peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies, etc. Thus, the affinity test may be used to corroborate the documentary evidence and should not be the sole criteria to reject a claim.

A Division Bench of this Court in W.P.No.22504 of 2015 dated 29.07.2015 has held that the cultural Report may not be a conclusive and final proof and that it may be a material document while considering the application of the petitioner for issuance of a community certificate. In view of the aforesaid propositions, the reliance placed by the first respondent State Level Scrutiny Committee solely on the report of the Anthropologist is unreasonable and hence on that ground itself, the impugned order is liable to be interfered with.

27.The other reason assigned is that the petitioner's father had been called upon for an enquiry on 20.09.2021 and that the State Level Scrutiny Committee had held that in respect of the claim of the petitioner's father, it had held in negative by its order dated 20.10.2021 (which is the subject matter of challenge in W.P.No.5237 of 2022). There has been no reason assigned by the first respondent Committee as to why it has disregarded the report of the District Level Vigilance Cell. It would be useful to point out that



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the Hon'ble Apex Court as well as this Court had held that when the District Level Vigilance Cell had submitted a favourable Report, the State Level Scrutiny Committee shall not proceed further but to pass orders. In the present case, in spite of the District Level Vigilance Committee having given a favourable Report, the first respondent State Level Scrutiny Committee had proceeded further that too without assigning any reason whatsoever as to why it has disregarded the Report of the Vigilance Cell. In view of the aforesaid reasons, we are of the considered view that the order impugned in W.P.No.2828 of 2022 is liable to be set aside.

28.In view of the specific finding of fact that the petitioner's paternal uncle's son V.Ramasamy has been appointed by the Government of Tamil Nadu representing Hindu Kattunayakan community in two committees viz., the Search Committee of the persons belonging Kattunayakan Tribe and a member of Tamil Nadu Scheduled Tribe Committee, the irresistible conclusion is that the petitioner also belongs to Hindu Kattunayakan community.

29.In light of the above, it is incumbent upon us to direct the fifth



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respondent Revenue Divisional Officer, Madhuranthakam to issue a community certificate certifying that the petitioner E.Karthikeyan belongs to Hindu Kattunayakan Community.

30.Now coming to the Writ Petition in W.P.No.5237 of 2022, the first respondent State Level Scrutiny Committee has rejected the claim of the petitioner therein that he does not belong to Hindu Kattunayakan Community. In the said case, the District Level Vigilance Cell, Chennai Region and the Anthropologist had submitted a Report that the petitioner does not belong to Hindu Kattunayakan Community. That apart, the first respondent has noted that the petitioner herein was not able to furnish any valid documents to substantiate his community claim.

31.It is surprising to note that the Vigilance Cell in the present case had given a Report that the petitioner does not belong to Hindu Kattunayakan Community, whereas in the case of his son, the Vigilance Cell which has inquired into and had given a favourable Report. As discussed supra, the Vigilance Cell in W.P.No.2828 of 2022 had also relied upon the fact that paternal uncle's son Mr.V.Ramasamy has been found to belong to



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Kattunayakan Community to come to such a conclusion. The said V.Ramasamy is the brother's son of the petitioner in W.P.No.5237 of 2022, the said aspect has not at all been considered by the State Level Scrutiny Committee. As we have already held that the petitioner in W.P.No.2828 of 2022, who is the son of the petitioner in W.P.No.5237 of 2022 is entitled to be issued with a community certificate certifying him to be a Hindu Kattunayakan. The petitioner herein, who is the father of the petitioner in W.P.No.2828 of 2022 is also entitled to be issued with a community certificate certifying him to be a Hindu Kattunayakan.

32.In view of the aforesaid discussions, the Writ Petitions are allowed and the impugned orders of the first respondent dated 20.10.2021 and 30.12.2021 are set aside and the Revenue Divisional Officer, Madhuranthakam is directed to issue a community certificate certifying the petitioner in W.P.No.5237/22 belongs to Hindu Kattunayakan, a Scheduled Tribe within a period of eight weeks from the date of receipt of a copy of this order. The certificate issued to the petitioner in W.P.No.2828/2022 by the Thasildar, Maduranthakam dated 03.10.1988 is held to be genuine.



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33.Before parting with the case, we wish to record our anguish on the functioning of the State Level Scrutiny Committee. The Hon'ble Apex Court in ***Kumari Maduri Patil's*** case (reported in ***1994 (6) SCC 241***) had laid down an exhaustive guidelines as to how the State Level Scrutiny Committee shall function. The ratio in the said judgment has been approved by the Hon'ble Apex Court in various judgments thereafter. The same has also been adopted by the State of Tamil Nadu by issuing G.O.Ms.No.106, Adi Dravidar Tribal Welfare (CV I) Department dated 15.10.2012 and which has also been further explained by a Division Bench of this Court in W.P.Nos.30368 and 31973 of 2015 dated 21.12.2015 (reported in ***2016 (1) CTC 647***). The State Level Scrutiny committee has been passing orders in total disregard of the guidelines. This case is a classic example of such disregard. In spite of the Vigilance Cell submitting a Report that the claim of the petitioner in W.P.No.2828 of 2022 is genuine, the State Level Scrutiny Committee had proceeded to hold that the claim is not genuine.

34.In doing so, there is no statement of fact as to how the Report of the Vigilance Cell is bad or not reliable. This is not the first case that we have come across where the State Level Scrutiny Committee had shut its eyes on



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the Report of the Vigilance Cell and had passed orders contrary to the Report.

While passing such orders, the State Level Scrutiny Committee had not given any reasons whatsoever as to why it disregarded the Report of the District Level Vigilance Cell. That apart, the State Level Scrutiny Committee had also disregarded, in certain cases, the community certificate issued by the Authorities which have been verified by it in case of the blood relatives/ close paternal relatives of the claimants by relying upon a certain maternal relatives' certificate, this is also not correct. This Court in various cases had held that in cases where the paternal relatives have been granted community certificates, and that when the claimants relied upon such certificates which were verified by the State Level Scrutiny Committee then, such certificates should not be disregarded.

35.A Division Bench of this Court in a judgment reported in **2016 (3) CTC 119** has also recorded that the Competent Authority without following the directions and guidelines issued by this Court in **2016 (1) CTC 647** has been rejecting the applications on erroneous considerations. In paragraph No.15 Clause 1 of the said judgment, a Division Bench has reiterated that the Competent Authority should consider the certificates issued in favour of the



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parents and close relatives of the applicant subject to verification of the relationship and until such certificates are cancelled by the State Level Scrutiny Committee.

36. One other aspect which disturbs our conscience is the unduly long time taken by the first respondent in verifying the community status of an individual. It has been time again reiterated that the said process should be completed at the earliest. The Hon'ble Apex Court in ***Kumari Maduri Patil's*** case (reported in ***1994 (6) SCC 241***) had held that the enquiry should be completed as expeditiously as possible preferably by day to day proceedings within such period not exceeding two months and that it should communicate the conclusion of the proceedings within a period of one month thereafter. We have never seen a case in which the State Level Scrutiny Community has passed orders within a period of two months much less expeditiously.

37. In view of the above, we direct the State Level Scrutiny Committee to comply with the guidelines issued by the Hon'ble Apex Court in ***Kumari Maduri Patil*** case (reported in ***1994 (6) SCC 241***), which has been adopted



by the State of Tamil Nadu in G.O.Ms.No.106, Adi Dravidar Tribal Welfare (CV I) Department dated 15.10.2012 and clarified by this Court in W.P. Nos.30368 and 31973 of 2015 dated 21.12.2015 (reported in **2016 (1) CTC 647**) in its letter and spirit.

38. Apart from the above, we also direct the State Level Scrutiny committee:

(a) To assign reasons as to why it differs from the District Level Vigilance Cell and issue show-cause notice to the claimant to attend an enquiry in case it feels that the Report of the Vigilance Cell is doubtful.

(b) The Competent Authority (RDO or Collector) shall not refuse issuance of a community certificate in favour of a claimant who relies upon the community certificate issued, and verified by the State Level Scrutiny Committee of his parents, brothers, sisters or close blood relative which is supported by genealogy tree issued by the concerned Revenue Authority.

(c) The State Level Scrutiny Committee shall endeavour to conclude the verification process expeditiously.



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(d)The State Level Scrutiny Committee shall not solely rely upon the

Report of the Anthropologist and the same may be a factor to consider the claim of the individuals.

(R.S.M., J.) (K.B., J.)
25.11.2022

Index: Yes

Internet: Yes

Speaking

gba/pam

To

- 1.The Chairman,
Tamil Nadu State Level Scrutiny Committee – III,
Adi Dravidar & Tribal Welfare Department,
Namakkal Kavignar Maligai,
Secretariat, Chennai – 600 009.
- 2.The District Collector,
Kanchipuram District,
Kanchipuram.
- 3.The Director,
Tribal Welfare,
Chepauk,
Chennai – 600 005.
- 4.The Deputy Superintendent of Police,
SC/ ST Vigilance Cell,
Kanchipuram.
- 5.The Revenue Divisional Officer,
Madhuranthakam,
Chengalpet District.



W.P.Nos.2828 & 5237, -----

6.The Senior Superintendent of Post Offices,
Chengalpet Division,
Chengalpattu – 603 001.

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R.SUBRAMANIAN, J.
and
K. KUMARESH BABU, J.

gba

A Pre-delivery common order in
W.P.Nos.2828 & 5237 of 2022

25.11.2022