



W.P.No. 5737 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 20.10.2022	Delivered on 28.10.2022
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CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

Writ Petition No.5737 of 2022
and WMP No.5823 of 2022

V. Sathyamurthi,
S/o. Virudhachalam,
Chief Engineer, Public Works Department,
Puducherry.

..Petitioner

Vs.

1. The Union of India,
Rep. by its Secretary to Government,
Government of Union Territory of Puducherry,
Local Administration and Public Works Department,
Public Works Wing, Puducherry.

2. Under Secretary to Government,
Government of Union Territory of Puducherry,
Local Administration and Public Works Department,
Public Works Wing, Puducherry.

3. The Chairman,
State Level Scrutiny Committee-III,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai 600 009.

.. Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari to call for the records relating to the impugned proceedings issued by the third respondent in proceedings No.14024-CV-4(2)/2014-37 dated 25.02.2022 and to quash the same.

For Petitioner : Mr.P.Wilson, Senior Counsel
for MR.G.Sankaran

For Respondents : Mr.V.Balamurugane
Government Pleader, for RR 1 & 2

Mrs.C.Sangamithirai
Special Government Pleader, for R3

ORDER

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

Challenge in the Writ Petition is to the order of the State Level Scrutiny Committee-III dated 25.02.2022, concluding that the Community Certificate issued to the petitioner to the effect that he belongs to Hindu Konda Reddy, a Scheduled Tribe Community is not genuine.

2. The petitioner was favoured with the certificate that he belongs to Hindu Konda Reddy, a Scheduled Tribe Community in the year 1977 by



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the Deputy Tahsildar, Namakkal. He was initially appointed as a Junior Engineer in the Department of Public Works, Government of Puducherry, on 08.08.1986 after due selection. In the year 1990, he was recruited by the Union Public Service Commission as an Assistant Engineer and was appointed as such on 26.09.1990. Even while the petitioner was working as an Assistant Engineer, certain complaints were made regarding his communal status. Such complaints were referred to the Superintendent of Police, Vigilance and Anti Corruption, Puducherry. An enquiry was conducted on 31.01.1994, wherein the Superintendent of Police, Vigilance and Anti Corruption, went to the native place of the petitioner examined the witnesses including the Village Administrative Officer and reached a conclusion that the petitioner in fact belongs to Hindu Konda Reddy, a Community classified as Scheduled Tribe.

2.1. Again, upon certain complaints, the Ministry of Home Affairs, Government of India, sought for a clarification from the Government of Puducherry, regarding the communal status of the petitioner. On 17.11.1998, Government of Puducherry, informed the Union Home Department that the Community Certificate produced by the petitioner is genuine. There were



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further complaints to the National Commission for Scheduled Castes and Scheduled Tribes and upon a query by the National Commission for Scheduled Castes and Scheduled Tribes, the Government of Puducherry forwarded a Report confirming the petitioner's communal status as Scheduled Tribe on 31.01.2001. The petitioner was thereafter promoted as an Executive Engineer under the vacancy for Scheduled Tribes in the year 2004.

2.2. The petitioner was denied promotion as a Superintending Engineer, in view of the cloud that was caused upon his communal status, due to certain representations that were made by certain vested interests. Therefore, the petitioner was forced to approach the Central Administrative Tribunal and upon the directions of the Central Administrative Tribunal, the petitioner was promoted as a Superintending Engineer in the year 2014, on par with his junior who was promoted earlier. The petitioner was made the Chief Engineer in the Public Works Department, Puducherry on 05.05.2021.

2.3. In the interregnum, during the year 2012, the Government of Puducherry had forwarded a complaint received from some third parties to



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the State Level Scrutiny Committee of Tamil Nadu with a request for verification of the Community Certificate of the petitioner. The State Level Scrutiny Committee on 23.01.2015 cancelled the petitioner's Community Certificate without obtaining Report of the District Level Vigilance Committee and the Anthropologist, as required by the Hon'ble Supreme Court in ***Kumari Madhuri Patil and another v. Additional Commissioner, Tribal Development and Others***, reported in ***(1994) 6 SCC 241***. The said order dated 23.01.2015 was made a subject matter of challenge in WP No.2301 of 2015. The order of the cancellation was stayed by this Court.

2.4. Pending the Writ Petition, the State Level Scrutiny Committee withdrew the order dated 23.01.2015 and recording such withdrawal, the Writ Petition was closed. Thereafter, the District Level Vigilance Committee and the Anthropologist conducted enquiries, as per the directions of the Hon'ble Supreme Court in ***Kumari Madhuri Patil's*** case. While the Anthropologist upheld the claim of the petitioner, the District Level Vigilance Committee gave a Report stating that the petitioner does not belong to Konda Reddy, a Scheduled Tribe Community. Thereafter, the State Level Scrutiny Committee conducted an enquiry and concluded to



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accept the report of the District Level Vigilance Committee and recommend cancellation of the certificate issued to the petitioner by the order impugned in the Writ Petition.

3. We have heard Mr.P.Wilson, learned Senior Counsel for Mr.G.Sankaran, appearing for the petitioner and Mr.V.Balamurugan, learned Government Pleader, Puducherry appearing for respondents 1 and 2, namely the Administration of the Union Territory and Mrs.C.Sangamithirai, learned Special Government Pleader appearing for the third respondent/the State Level Scrutiny Committee.

4. Mr.P.Wilson, learned Senior Counsel appearing for the petitioner would submit that the reasons assigned by the District Level Vigilance Committee in support of its conclusion against the petitioner are wholly incorrect. The learned Senior Counsel would point out that the State Level Scrutiny Committee has relied upon the Report of the District Level Vigilance Committee which proceeds on the footing that the Anthropologist has concluded that the petitioner does not belong to Konda Reddy Community. He would further point out that the State Level Scrutiny



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Committee had chosen to rely upon its cancellation order dated 23.01.2015 which was recalled. He would also point out that the reliance placed on the cancellation of the Certificate issued to the brother of the petitioner cannot be justified, inasmuch as the brother of the petitioner had not chosen to challenge the cancellation and in the absence of the challenge the cancellation cannot constitute *res judicata*.

4.1. The learned Senior Counsel would also rely upon the circumstance that the petitioner's certificate was verified even in the year 1994 and the District Vigilance Cell of Puducherry Government had concluded that the certificate is genuine based on the reports from the native place of the petitioner. Further reliance is placed on the Official Memorandum issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, Government of India, dated 25.05.2005, wherein there is a direction not to undertake verification of certificates of candidates who were appointed prior to 1995.

4.2. The learned Senior Counsel would also draw our attention to the Transfer Certificate of the petitioner issued by the Alagappa Chettiar



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College of Engineering and Technology, Karaikudi on 21.02.1986, which shows the community of the petitioner as Hindu Scheduled Tribe.

Considerable reliance is also placed by the learned Senior Counsel on the Report of the Superintendent of Police, Vigilance and Anti Corruption, Puducherry dated 29.07.1994 addressed to the Chief Vigilance Officer, Puducherry, after verification of the community certificate of the petitioner, wherein the Superintendent of Police, Vigilance and Anti Corruption, Puducherry, had reached the conclusion that the petitioner belongs to Hindu Konda Reddy Community which has been recognised as Scheduled Tribe. He would also draw our attention to the report by the Under Secretary to the Government of Puducherry dated 17.11.1996, wherein it has been categorically stated that since the claim that the petitioner does not belong to Hindu Konda Reddy has not been substantiated, the case against the petitioner and his brother should be closed.

4.3. The learned Senior Counsel would also draw our attention to the I.D.Note dated 22.12.1997, wherein the Under Secretary to Government of Puducherry had reported that the allegation of production of false community certificate was not substantiated. Again in 2009 i.e.,



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31.01.2009, the Under Secretary to Government of Puducherry had reported to the National Commission for Scheduled Castes and Scheduled Tribes that the allegation of production of false community certificate made against the petitioner is false. The learned Senior Counsel would also point out that the report of the Anthropologist dated 28.11.2017 concludes that the petitioner belongs to the Scheduled Tribe Community namely Hindu Konda Reddy.

4.4. Drawing our attention to the Report of the District Level Vigilance Committee, dated 28.11.2017, the learned Senior Counsel would point out that the said report proceeds on the wrong footing that the Anthropologist had reported that the petitioner does not belong to Hindu Konda Reddy Community. He would also fault the District Level Vigilance Committee for relying upon the Report of the District Collector, Namakkal, dated 29.12.2014 which was obtained in violation of the procedure prescribed under ***Kumari Madhuri Patil***'s case.

4.5. The learned Senior Counsel would further contend that the reliance placed by the District Level Vigilance Committee on the description of the community of relatives of the petitioner in the School records is



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misplaced, more so, after having recorded that upon issuance of the certificate in 1977, the School records of the petitioner have been corrected and it has been stated that he belongs to Hindu Konda Reddy Community. He would also fault the District Level Vigilance Committee for relying upon the statement of the Village Administrative Officer to the effect that there is no person belonging to Konda Reddy Community in the Village, which runs counter to the statements of the Village Administrative Officer of the very same Village made before the Superintendent of Police, Vigilance and Anti Corruption, Puducherry. The said statement also runs counter to the statement of the Tahsildar, Namakkal made on 18.07.1994.

4.6. The learned Senior Counsel would also rely upon the judgment of this Court in *S.Natarajan v. District Collector, Tuticorin and others*, reported in *AIR 1999 Mad 241* and the judgment of the Hon'ble Supreme Court in *J.Chitra v. District Collector and Chairman, State Level Vigilance Committee, Tamil Nadu and others*, reported in *(2021) 9 SCC 811*, in support of his submissions.

5. Mr.V.Balamurugan, learned Government Pleader, Puducherry



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appearing for respondents 1 and 2, the Employer/Union Territory of Puducherry would submit that the verification was made on the basis of complaints made against the petitioner and the Union Territory Administration will have to abide by the decision of the State Level Scrutiny Committee. He would also submit that the direction to conduct enquiry itself may not be justified, inasmuch as the petitioner had joined the services of the Department as early as in 1986, in view of the directions contained in the Office Memorandum dated 25.05.2005. The learned Government Pleader would also point out that to a specific query raised by the State Level Scrutiny Committee, vide its letter dated 29.03.2021, the Government of Puducherry had replied to the effect that the enquiry may be conducted since the complaint is prior to 2005.

6. Mrs.C.Sangamithirai, learned Special Government Pleader appearing for the third respondent would submit that the State Level Scrutiny Committee concluded to accept the report of the District Level Vigilance Committee, as it found that the report of the District Level Vigilance Committee has been supported by documentary evidence. She would also point out that the State Level Scrutiny Committee has to only



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assess the evidence available before it and arrive at a conclusion. It is only an adjudicating body and it cannot venture into a roving enquiry. The learned Special Government Pleader would submit that the procedure pointed out in ***Kumari Madhuri Patil***'s case has been scrupulously followed and hence this Court may not interfere with the factual conclusions of the State Level Scrutiny Committee in exercise of the power under Article 226 of the Constitution of India.

7. We have considered the submissions of the learned counsel on either side.

8. The fact remains that the petitioner was appointed under the quota reserved for Scheduled Tribes in the year 1986 based on a Certificate issued by the Competent Authority in the year 1977. Upon complaints, the said certificate was verified by the Competent Authority at the relevant point of time, namely the employer even during the year 1994 and after conducting enquiry in the Village of the petitioner and after taking statements of the Village Administrative Officer of the Village and the Tahsildar of Namakkal, the Superintendent of Police, Vigilance and Anti



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Corruption, Puducherry, had reached a conclusion that the certificate is genuine. Thereafter again in the year 1996, there was an attempt to raise the issue of the community of the petitioner to which a reply is sent by the Under Secretary to the Government of Puducherry to the Director, CPS Ministry of Home Affairs, Union of India, informing them that the Certificate has been found to be genuine. An ID Note was also sent on 22.12.1997 recommending closure of the vigilance case against the petitioner. This was again confirmed on 31.01.2009.

9. In *J.Chitra v. District Collector and Chairman, State Level Vigilance Committee, Tamil Nadu and Others*, reported in (2021) 9 SCC 811, the Hon'ble Supreme Court had held that repeated verifications cannot be done. The Government of Puducherry chose to constitute a State Level Scrutiny Committee only in the year 2005 prior to that the verifications were being done by the Directorate of Vigilance and Anti Corruption. In compliance with the procedure that was adopted by the Government of Puducherry, the complaint made against the petitioner was enquired by the Superintendent of Police, Vigilance and Anti Corruption, Puducherry, even in the year 1994 and the Vigilance Department in its report dated 21.07.1994



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concluded that the Certificate is genuine. The same was confirmed in the year 1996, 1997 and in 2009. Based on the said certificate and the confirmation thereon the petitioner was also given promotions and he has almost attained the age of superannuation now.

10. In *J.Chitra v. District Collector and Chairman, State Level Vigilance Committee, Tamil Nadu and Others*, the Hon'ble Supreme Court had frowned upon repeated verifications or scrutiny of the Community Certificates issued to individuals. In fact after referring to the enquiry conducted by the District Level Vigilance Committee, which had by then become final, the Hon'ble Supreme Court had in paragraph 10 of the said judgment held as follows:

“10. In the instant case, an inquiry was conducted by the District Level Vigilance Committee which has upheld the community certificate in favour of the Appellant. The decision of the District Level Vigilance Committee in the year 1999 has not been challenged in any forum. The recognition of the community certificate issued in favour of the Appellant by the District Vigilance Committee having become final, the State Level Scrutiny Committee did not have



jurisdiction to reopen the matter and remand for fresh consideration by the District Level Vigilance Committee. The guidelines issued by G.O.108 dated 12.09.2007 do not permit the State Level Scrutiny Committee to reopen cases which have become final. The purpose of verification of caste certificates by Scrutiny Committees is to avoid false and bogus claims. Repeated inquiries for verification of caste certificates would be detrimental to the members of Scheduled Castes and Scheduled Tribes. Reopening of inquiry into caste certificates can be only in case they are vitiated by fraud or when they were issued without proper inquiry.”

11. Upon the above conclusion, the Hon’ble Supreme Court set aside the cancellation done by the State Level Scrutiny Committee on the basis that the order of the District Level Vigilance Committee passed in the year 1999 had become final. This Court, even prior to the judgment in ***Kumari Madhuri Patil***’s case, had in ***S.P. Sakthi Devi v. Collector of Salem***, reported in ***(1985) 98 Mad LW 105***, held as follows:

"1. A caste/community certificate issued by an empowered public authority under seal continues to be a valid document till it is cancelled by the said authority



or by his superior authority.

2. Their contents are to be treated as correct and every public authority undertakings, bodies, institutions, etc. which are bound by instructions relating to such certificates, are bound to act upon them, so long as they are not cancelled.

3. In no disciplinary proceedings, their genuineness or correctness of their contents can be gone into.

It is open to the department or employer or organisation to ask the issuing authority or District Collector, as the case may be, to verify whether the certificate as issued could be still valid, on material which have since come to their knowledge. They can appear in the verification enquiry and place the materials.

4. If the certificate is cancelled, then disciplinary proceedings can be initiated for having



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furnished false information.

5. Appointing authorities have the right to verify the genuineness of the certificates by approaching the District Magistrate Collector of the District or such other constituted authority and once the report is received that the certificate is genuine, thereafter the certificate holder cannot be further harassed to prove his caste/community in any other manner."

The same Principles were reiterated by this Court in WP No.417 of 1985 and W.P. No.8402 of 1985, wherein this Court concluded as follows:

"The certificate once obtained and verified; would not require repeated verifications, unless, the required circumstances for a further investigation is called for and then while taking action for cancellation, the burden of establishing non-genuineness of existing certificate will be on the authorities,"

"Third respondent having already certified



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the genuineness of the certificate issued on the enquiry conducted by his Additional P.A., respondents 1 and 2 are therefore precluded from addressing any other authorities seeking for any verification regarding the certificate issued to the petitioner by Tahsildar, Saidapet. They are bound to treat the petitioner as belonging to Konda Reddy Community."

12. Following the above said judgments, this Court in **S.Natarajan's** case, referred to supra, concluded that once verification has been done by a Competent Authority, there cannot be further verifications in the absence of any challenge or any change in the circumstances. In **Dayaram v. Sudhir Batham and Others**, reported in (2012) 1 SCC 333, the Hon'ble Supreme Court had also reiterated the said position and concluded that repeated verifications cannot be done. In the light of the above legal position, we are constrained to conclude that the verification of the communal status of the petitioner for the second time is improper and without jurisdiction.



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13. By the Office Memorandum dated 25.05.2005, the Central Government had directed that the community certificates of those persons, who were appointed prior to 1996 should not be verified. The said Office Memorandum was issued taking into account the passage of time and to attach certain finality to the issue relating to communal status. The State Level Scrutiny Committee had rightly sought for a clarification from the Government of Puducherry, as to whether the petitioner would be eligible to the exemptions as per instructions issued in the Office Memorandum dated 25.05.2005.

14. Unfortunately, the Government of Puducherry by its letter dated 20.05.2021 had claimed that the reference having been made even in the year 1994 itself and the cancellation order was passed in the year 2015, the petitioner will not be entitled to the exemption granted by the Office Memorandum dated 25.05.2005. This claim of the Union Territory of Puducherry, in our opinion cannot be sustained. A verification was undertaken in the year 1994 and the Vigilance Department of the Puducherry Government, which was the Competent Authority at that point of time, had returned a finding that the certificate is genuine. Thereafter, the



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State Level Scrutiny Committee on the basis of a reference in the year 2012, took up the matter and cancelled the certificate by order dated 23.01.2015.

The said order was recalled by the State Level Scrutiny Committee itself on 27.09.2016. It is thereafter the State Level Scrutiny Committee addressed the Government of Puducherry on 29.03.2021 seeking a clarification regarding the eligibility of the petitioner to the exemption granted by Office Memorandum 25.05.2005.

15. True the Government of Puducherry had without considering the effect of the report of the Superintendent of Police, Vigilance and Anti Corruption, Puducherry dated 21.07.1994, which confirms the communal status of the petitioner and the further correspondence in the year 1996, 1997 and 2009 had concluded that the petitioner is not entitled to the exemption granted under the Office Memorandum. The cancellation order which was recalled by the State Level Scrutiny Committee was relied upon in support of the said conclusion. We are unable to concur with the said recommendation of the Government of Puducherry to the effect that the petitioner will not be entitled to the exemption granted under the Office Memorandum dated 25.05.2005.



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16. No doubt the said communication of the Government of Puducherry dated 20.05.2021 is not under challenge before us, since the communication has been made suppressing certain vital facts, we are forced to go into the correctness of the decision taken also. We therefore conclude that the petitioner would be entitled to the benefits of the Office Memorandum dated 25.05.2005 and the verification under taken by the State Level Scrutiny Committee was without jurisdiction. We also find an unusual conduct on the part of the Government of Puducherry in the case on hand. A Writ Petition has been filed by the Government of Puducherry seeking a direction to the State Level Scrutiny Committee to expedite the enquiry. We do not want to comment upon the said conduct, as the same may not be very germane to the disposal of this Writ Petition. We would however like to record the factum of filing of a Writ Petition by the employer seeking speedy disposal of the proceedings before the State Level Scrutiny Committee.

17. Turning to the merits, the main grounds on which the State Level Scrutiny Committee has arrived at the conclusion that the petitioner



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does not belong to Konda Reddy community is that the District Level Vigilance Committee's Report is against him and the certificate granted to his brother has been recalled by the State Level Scrutiny Committee. We are unable to sustain the said conclusion of the State Level Scrutiny Committee, inasmuch as it relies upon the report of the District Collector dated 29.12.2014, based on which the order was passed by the State Level Scrutiny Committee on 23.01.2015. We have already adverted to the fact that this order dated 23.01.2015 was recalled by the State Level Scrutiny Committee itself on 27.09.2016 which led to the Writ Petition No.2301 of 2015 filed by the petitioner being disposed of by this Court with the direction to the State Level Scrutiny Committee to conduct a fresh enquiry.

18. We also find from the impugned order that the District Collector, Namakkal, in its letter dated 29.12.2014 concluded that the certificate has been issued by the Deputy Tahsildar and therefore it is not true. This conclusion or this recommendation is against the settled position of law, where the Deputy Tahsildar was empowered to issue a community certificate prior to G.O.Ms.No.517 dated 14.05.1985. They were operating as delegated Authorities between 14.02.1957 and 13.05.1985. The District



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Level Vigilance Committee has in its report stated that the Anthropologist has opined that the petitioner does not belong to Konda-Reddy community which is evidently incorrect. The report of the Anthropologist clearly states that the petitioner belongs to the Scheduled Tribe Community of Konda Reddy.

19. The reliance placed by the State Level Scrutiny Committee on the description of several other persons, namely the relatives of the petitioner as Reddies and not as Konda Reddy in various documents may not lend support to the conclusions of the Committee, inasmuch as there is no reference to any certificate issued to such persons to the effect that they belong to Konda Reddy Community. The fact that the certificate of the brother of the petitioner was cancelled is attempted to be put against the petitioner. The cancellation was not challenged by the brother of the petitioner. The State Level Scrutiny Committee is not a judicial authority, it has been held to be an adjudicating authority only, therefore, its findings cannot operate as *res judicata*.

20. Once we record a finding that the State Level Scrutiny



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Committee did not have the jurisdiction to enter upon a second verification, we do not think that the fact that the cancellation of the certificate of the brother of the petitioner was not challenged could be put against the petitioner. It is also stated that the brother of the petitioner has retired from service and he is not having a good mental health condition as his wife was murdered on the date of the retirement. Therefore, the circumstances which prevailed on the brother of the petitioner to desist from challenging the cancellation will also have to be taken into account while deciding on the challenge made by the petitioner. The reliance placed by the State Level Scrutiny Committee on the report of the District Level Vigilance Committee, which in turn is based on a wrong assumption that the Anthropologist had concluded that the petitioner does not belong to a Scheduled Tribe Community shakes the foundation of the conclusions of the State Level Scrutiny Committee. We are therefore unable to sustain the said conclusions.

21. In the light of the above narrative, we conclude that the proceedings of the State Level Scrutiny Committee are vitiated because:

(i) *It had no jurisdiction to enter upon a second verification;*



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(ii) The petitioner is entitled to the exemption granted under the Office Memorandum dated 25.05.2005 issued by the Union of India; and

(iii) The procedure adopted by the State Level Scrutiny Committee in relying upon the report of the District Level Vigilance Committee, which proceeds are a wrong assumption is flawed.

22. We are therefore constrained to set aside the orders of the State Level Scrutiny Committee dated 25.02.2022. The Writ Petition will therefore stand **allowed** and the order of the State Level Scrutiny Committee will stand set aside and we up hold the genuineness of the certificate issued to the petitioner. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(R.SUBRAMANIAN, J.) (K.KUMARESH BABU, J.)
28.10.2022

Index: Yes
Internet: Yes
speaking order
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To

1. The Secretary to Government,
Union of India,
Government of Union Territory of Puducherry,
Local Administration and Public Works Department,
Public Works Wing, Puducherry.
2. Under Secretary to Government,
Government of Union Territory of Puducherry,
Local Administration and Public Works Department,
Public Works Wing, Puducherry.
3. The Chairman,
State Level Scrutiny Committee-III,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai 600 009.



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R.SUBRAMANIAN, J.

and

K.KUMARESH BABU, J.

(jv)

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