



W.P.No.6954 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 09.11.2022	Delivered on 17.11.2022
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CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.6954 of 2022
and
W.M.P.No.6991 of 2022

K.J.Arunmozhi

.. Petitioner

Vs.

1.The Tamil Nadu State Level Scrutiny Committee – III,
represented by its Chairman and Secretary,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maligai,
Secretariat, Chennai – 9.

2.The Deputy Director General,
Avadi Field Unit (Disciplinary Authority),
Government of India,
Ministry of Defence,
Directorate of Ordinance (C&S),
Avadi, Chennai – 600 051.

..Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorari, calling for the records of the 1st respondent in its Proceedings No.6820/CV5/2019-10 dated 11.02.2022 and the consequential order of the 2nd respondent in its No.103/Doo/AFU/Disc & Legal/IE/KJA dated 11.03.2022 and quash both the orders.

For Petitioner : Mr.V.Vijayashankar
For Respondents : Mr.S.Silambanan,
Additional Advocate General
Assisted by Mrs.C.Sangamithirai,
Special Government Pleader

ORDER

Challenge in the writ petition is to the order of the State Level Scrutiny Committee dated 11.02.2022, in and by which, the Committee concluded that the claim of the petitioner that he belongs to scheduled tribe community 'Konda Reddy' is not genuine and consequential order of termination issued by the employer viz., 2nd respondent dated 11.03.2022.



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2. The claim of the petitioner is that he belonged to Scheduled Tribe community viz., Konda Reddy and a certificate to that effect was issued by the Tahsildar, Mettur on 17.11.1980 and later by the Revenue Divisional officer, Mettur on 27.10.1988. He was appointed as a semi-skilled worker with the 2nd respondent in the year 1997 and at present is working as a Master Craftsman in Ordnance Factory at Trichy, which is now under the control of the 2nd respondent. The employer referred the certificate for verification by the State Level Scrutiny Committee.

3. The petitioner would claim that all his paternal uncles and aunts have been described as persons belonging to Konda Reddy community in their school records. Most of them have been favoured with community certificates as persons belonging to Scheduled Tribe community of Konda reddy. In fact, a mandamus has been issued by this Court at the instance of one of his uncles Sanjeevi to issue Scheduled Tribe community certificate to his daughter Thaara Shanmathi.



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4. Upon reference, the District Level Vigilance Cell enquired in the Village of the petitioner and concluded that the petitioner does not belong to the Scheduled Tribe community viz., Konda Reddy. The report was served on the petitioner on 20.03.2015. The petitioner sent a detailed explanation on 30.03.2015 pointing out that the materials collected by the Vigilance Cell in its discreet enquiries have not been forwarded to him and the same is in violation of the settled procedure established by law in relation to verification of community certificates. The petitioner would submit that he had also sought for cross-examination of the witnesses whose statements were recorded by the District Level Vigilance Cell. Without furnishing the documents and without giving an opportunity to the petitioner to cross-examine the witnesses, the state Level Scrutiny Committee concluded that the claim of the petitioner is not genuine and recommended cancellation of certificate by order dated 07.04.2016.

5. The said order was challenged by the petitioner in W.P.No.17741 of 2016. The said writ petition came to be allowed on



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18.04.2017, pointing out that there had been substantial violation of principles of natural justice in the procedure adopted by the State Level Scrutiny Committee. The Division Bench has held that the petitioner is entitled to copies of all the documents that were relied upon by the Vigilance Cell and the petitioner should also be provided with opportunity to cross-examine the persons whose statements have been relied upon by the Vigilance Cell. The Division Bench of this Court issued a direction requiring the District Level Vigilance Cell to furnish all the documents and provide opportunity to the petitioner to cross-examine the witnesses and thereafter pass orders in accordance with law.

6. In the interregnum, the petitioner's services were terminated by the employer on 14.05.2016 in violation of the order of stay granted by this court on 11.05.2016. The Division Bench also directed reinstatement of the petitioner and the petitioner was reinstated in service on 06.04.2017. Thereafter, consequent upon directions issued by the Division Bench, the petitioner was summoned for enquiry on 18.09.2017. The petitioner appeared on that day and sought for the documents and also for opportunity



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for cross-examination. The Anthropologist Member of the State Level Scrutiny Committee made some enquiries with the petitioner and the petitioner was informed that he would be furnished copies of the documents. Again after about two years, in 2019, the petitioner was called to appear for enquiry on 11.04.2019.

7. The petitioner again made a request for copies of the documents and for permission to cross-examine the individuals. The petitioner was informed that a fresh date for enquiry would be communicated. However, the petitioner received a communication informing him that the Committee has again concluded that the petitioner's certificate is not genuine, by its order dated 16.04.2019. The said order also stated that the petitioner was absent on 11.04.2019. This led to another challenge in WP.No.12053 of 2019. The operation of the order of the State Level Scrutiny Committee was also stayed by this Court again on 31.10.2019. A Division Bench of this Court found that the same lacuna which existed earlier viz., non-compliance with the principles of natural justice also prevailed in the second enquiry. Upon such finding, this Court again set aside the order of the State Level

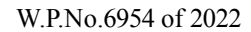


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Scrutiny Committee and remitted the matter for further enquiry, after furnishing the reports and other materials relied on by the District Level Vigilance Cell.

8. By notice dated 28.01.2020, the petitioner was required to appear for enquiry on 11.02.2020. On 11.02.2020, the petitioner appeared and again sought for copies of the documents and due to outbreak of COVID and consequent lock-down there were no further proceedings. The petitioner was again asked to appear for enquiry on 30.12.2021. The petitioner appeared before the Committee and submitted almost 38 documents and reports of the Revenue Divisional Officer, wherein, it was clearly reported that many members of the petitioner's family belonged to Konda Reddy community and were living over Kolathur and Mettur blocks of Salem District.

9. A written explanation was also submitted by the petitioner on 20.01.2022, wherein, he again requested the Committee to grant him an opportunity to cross-examine the persons whose statements have been relied



10. The petitioner would again contend that the principles of justice have been violated and the petitioner has not been given an opportunity to cross-examine the persons whose statements were recorded in the District Level Vigilance Cell. The petitioner would also further allege that the certificates and the materials placed by him in support of his claim that he belonged to Scheduled Tribe community viz., Konda Reddy have not been considered, by the State Level Scrutiny Committee. It is also pointed out that the specific directions issued by this Court regarding supply of copies of statements and opportunity to cross-examine the witnesses has not been complied with.



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11. This claim of the petitioner is resisted by the State Level Scrutiny Committee, 1st respondent contending that though the petitioner was favoured with a certificate to the effect that he belonged to Konda Reddy, a Schedule Tribe by the Tahsildar on 17.11.1980 and the Revenue Divisional Officer on 27.10.1988, upon enquiry, it was found that neither the petitioner nor his near relatives belong to the said community.

12. In the counter affidavit filed by Mr.M.Vadivel, Additional Secretary to Government it is averred that the entire verification proceedings were conducted as per the guidelines issued by the Hon'ble Supreme Court in *Kumari Madhuri Patel & Ors. vs. Additional Commissioner, Tribal Development & Ors.* reported in *1984 (6) SCC 241* and relevant Government orders in GO.2D.No.108 dated 12.09.2007 and G.O.Ms.No.106 dated 15.10.2012.

13. It is also pointed out that the District Level Vigilance Cell upon enquiry has found that all the relatives of the petitioner have been described



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as Hindu-Reddy in their school records during the years 1939 to 1958.

Pointing out the fact that the petitioner heavily relied upon the certificate issued to one of his paternal uncles Mr.Sanjeevi, it is claimed that the parents of the said Sanjeevi and a sister of Sanjeevi were described as Reddy and not as Konda Reddy. While admitting the fact that opportunity to cross-examine the persons whose statements were recorded by the District Level Vigilance Cell was not provided to the petitioner, it is submitted that the same will not vitiate the enquiry, as no reliance is placed by the Committee on the said statement of the witness viz., Village Administrative Officer.

14. Mr.V.Vijayshankar, learned counsel appearing for the petitioner would vehemently contend that once there is a specific direction issued by the Division Bench of this Court in its order made in W.P.No.12503 of 2019, any breach thereon will have the serious consequence of rendering the proceedings a nullity. Even earlier, the Division Bench in its order dated 18.04.2017 made in W.P.No.17741 of 2016 issued a specific direction to be followed by the State Level Scrutiny Committee in the conduct of proceedings for verification of the certificate of the petitioner.

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Any violation or breach of the directions of the Division Bench of this Court would, according to the learned counsel for the petitioner, vitiate the entire verification process.

15. Arguing further, the learned counsel appearing for the petitioner would submit that once his close relatives have been favoured with a certificate and so long as those certificates are not cancelled, the certificate of the petitioner cannot be cancelled on the ground that he does not belong to Konda Reddy community. Reliance is also placed on the series of orders passed by the State Level Scrutiny Committee in matters relating to verification of certificates of persons belonging to Konda Reddy community.

16. Contending contra, Mr.S.Silambanan, learned Additional Advocate General would submit that the report of the District Level Vigilance Cell has been furnished to the petitioner and the same discloses that the Vigilance Cell after conducting elaborate enquiry with various persons and after verifying various documents including the entries in the school records had found that the petitioner does not belong to Scheduled



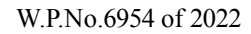
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Tribe community viz., Hindu-Konda Reddy.

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17. Mr.S.Silambanan, learned Additional Advocate General would also draw our attention to other documents which have been relied upon by the District Level Vigilance Cell to conclude that the claim of the petitioner is not genuine. These documents including entries in the school records of the petitioner's father and other close relatives would show that they have been described as persons belonging to Hindu Reddy and not Konda Reddy. It is also stated that the birth register during the period have been verified and it is found that there was no birth, registered of persons belonging to Konda Reddy community in and around the Kolathur village between 1941 and 1977. Therefore, according to the learned Additional Advocate General, the failure on the part of the State Level Scrutiny Committee to provide an opportunity for cross-examination of the Village Administrative Officer, whose statement has been recorded by the District Level Vigilance Cell will not vitiate the proceedings.

18. We have considered the rival submissions. The procedure for verification of community certificate is well settled by now. The State Level





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the petitioner and examine the practises existing in the family, in order to ascertain as to whether the person actually belonged to the Scheduled Tribe or not. It appears that such an exercise has not been carried out. We are unable to find any reference to the report of the Anthropologist either by the District Level Vigilance Cell or in the orders of the State Level Scrutiny Committee.

21. It is admitted that the petitioner was not given an opportunity to cross-examine the Village Administrative Officer, whose statement, we find, has been heavily relied upon by the District Level Vigilance Cell. In the normal course, upon noticing these deficiencies in the procedure, we would have remitted the matter to the State Level Scrutiny Committee. We do not propose to do that in the case on hand as it will be a third remand order, if we are to again remit the matter to the State Level Scrutiny Committee.

22. The entire papers have been placed before us. The fulcrum of the report of the District Level Vigilance Cell is the school records of the parents of the petitioner and the records relating to some of the relatives. Contrary to this, the petitioner has produced several documents which are



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various certificates and school records of his near relatives. The birth certificate of the petitioner has been produced and the same does not contain any reference to the community of the petitioner. Form-V issued under the Registration of Birth and Death Act does not contain a column for recording the communal status of the parents or child born. The school records of the petitioner had been produced, wherein, he has been recorded as a person belonging to Hindu-Konda Reddy. Similarly the community certificate issued to him by the Tahsildar, Mettur on 17.11.1980 has also been produced. The community certificate issued to Sanjeevi, paternal uncle of the petitioner, his school certificates have also been produced and a perusal of those certificates would show that he has been described as a person belonging to Scheduled Tribe community of Konda Reddy. Even in the transfer certificate issued to him, he has been shown as a person belonging to Hindu Konda Reddy.

23. It is also seen that Thaara Shanmathi D/o. Sanjeevi has also been favoured with a certificate by the Revenue Divisional Officer, Mettur to the effect that she belongs to Scheduled Tribe community Konda Reddy



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pursuant to the directions issued by this Court. Another paternal uncle of the petitioner C.Senthil has also been granted a certificate stating that he belongs to Hindu Konda Reddy. The paternal aunts of the petitioner except one Indhumathi have been granted certificates to the effect that they belong to the Scheduled Tribe community.

24. The petitioner has also produced reports of two Anthropologists one Dr.Parimurugan, Assistant Professor, Department of Anthropology, University of Madras and Prof.Subramanyam Naidu, Department of Anthropology, Central University of Pondicherry. A perusal of those reports would show that the community viz., Konda Reddy was prevalent in Mettur, Salem, Trichy and Uppliyapuram areas of Tamil Nadu. The State Level Scrutiny Committee also in other cases had recognised the fact that the people belonging to the Scheduled Tribe community of Konda Reddy are residing in certain parts of Tamil Nadu, particularly in Mettur and Salem Taluks.

25. In fact, in the employment registration card of the petitioner's



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father he is shown to belong to Scheduled Tribe. The State Level Scrutiny

Committee has brushed aside all these documents and preferred the entries made in birth extract. The entries made in the birth extract may not offer sound proof of a person's community, as there is no mandate in law for recording a persons community in the birth certificate. Further recording of birth is basically made on the basis of the information given by a stranger in many cases and hence, there is a possibility of mis-information. Recording a person belonging to Konda Reddy as Reddy is very common prior to 1975, where these Schedule Tribe community people were not properly educated and they were not aware of their rights. Our little experience shows that almost in all cases where community certificates are verified, it is found, that prior to 1975, the birth extracts did not reflect the correct status. We therefore conclude that it will be really unsafe to rely upon the birth extracts.

26. In the case on hand, various documents including school records of the petitioner himself, his paternal uncles, Paternal Aunts have been Produced. All of them reflect that the entire family members were shown as persons belonging to Scheduled Tribe community of Konda Reddy. In fact, certificate has been issued to one of the cousins of the



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petitioner Thaara Shanmathi pursuant to the directions of this Court. We find some attempts have been made for cancellation of the certificate issued to C.Sanjeevi, but, we do not find any orders passed. Therefore, so long as the certificate issued to Sanjeevi remains valid, we do not think that the conclusion of the State Level Scrutiny Committee that the petitioner's certificate is not genuine could be sustained.

27. The State Level Scrutiny Committee has also sought to rely upon the entries in the school records of some members of the family of the petitioner which were recorded prior to independence or immediately after independence. It is a common knowledge that people do not pay much attention to the entries made in the school registers and they were made by the Head Masters concerned on popular perception.

28. In fact one of the petitioner's Aunts had contested the local body election in the seat reserved for the Scheduled Tribe and she has been elected. This by itself would go to show that there are people belonging to Konda Reddy, a Scheduled Tribe community living in and around Mettur Taluk and to conclude that there is no person belonging to Konda Reddy



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community living in and around Mettur Taluk would be really dangerous.

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29. In view of the above discussion and documents available, we conclude that the petitioner's claim that he belongs to Scheduled Tribe community of Konda Reddy is valid and he is entitled to a certificate to that effect. The conclusions of the State Level Scrutiny Committee in our opinion are based on irrelevant and unsafe materials. In fact, there is a report of the Revenue Divisional Officer, Mettur dated 06.06.1978 accepting the fact that people belonging to Konda Reddy community had been living in Mettur Taluk of Salem District.

30. Therefore, we are unable to sustain the conclusion of the State Level Scrutiny Committee to the effect that the petitioner does not belong to Konda Reddy community. The proceedings of the State Level Scrutiny Committee dated 11.02.2022 are set aside and the certificate issued to the petitioner by the Tahsildar, Mettur dated 17.11.1980 is held to be genuine. Of course, a controversy has been raised as to the very genuineness of the certificate issued by the Revenue Divisional Officer, Mettur dated



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27.10.1988 and there is a claim made that such certificate was not issued by the Revenue Divisional Officer at all. But, we find that such a contention was not projected in the earlier proceedings as well as in the counter affidavit filed in this writ petition. We therefore desist from going into the question. Dehors the certificate issued by the Revenue Divisional Officer, if the certificate issued by the Tahsildar dated 17.11.1980 is held to be genuine, the petitioner would be entitled to the benefits of the said certificate.

31. Surprisingly, in the case on hand, we find that the cancellation is communicated to the employer even before it is communicated to the petitioner. The petitioner has made a specific averment that the order of the State Level Scrutiny Committee dated 11.02.2022 was received by him only on 15.03.2022 and the employer had passed order dismissing him from service even on 11.03.2022. Be that as it may, since the order dated 11.03.2022 is only a consequence of the order dated 11.02.2022 and once order dated 11.02.2022 is set aside, the termination order dated 11.03.2022 would automatically go. Therefore, the order dated 11.03.2022 is also set



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aside and the petitioner would be at liberty to re-join the service with the 2nd

respondent forthwith.

32. Accordingly, the writ petition will stand **allowed**. However, in the circumstances we refrain from making any orders as to cost. Consequently, the connected miscellaneous petition is closed.

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

.11.2022

dsa

Index :Yes

Internet :Yes

Speaking order



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To:-

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1. The Chairman and Secretary, ,
Tamil Nadu State Level Scrutiny Committee – III,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maligai,
Secretariat, Chennai – 9.
2. The Deputy Director General,
Avadi Field Unit (Disciplinary Authority),
Government of India,
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R.SUBRAMANIAN, J.
and
K.KUMARESH BABU,J.

dsa

PRE-DELIVERY ORDER IN
W.P.No.6954 of 2022

17.11.2022