



W.P.No.13851 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.11.2022

PRONOUNCED ON : 16.12.2022

CORAM

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

W.P.No.13851 of 2022

C.Chockkalingam

... Petitioner

/vs./

- 1.The Chief Secretary,
Government of Tamil Nadu,
Secretariat,
Fort St.George,
Chennai-9.
- 2.The Director,
Department of Tribal Welfare,
PWD Estate,
Chepauk,
Triplicane,
Chennai 600 005.
- 3.The Principal Secretary/
Commissioner of Revenue Administration,



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Commissionerate of Revenue Administration,
Ezhilagam,
Chepuak,
Chennai -5.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to consider and pass orders on the petitioner's representation dated 02.02.2022 by framing guidelines for issuance of ST community certificate to Kurumans community people, on the basis of the judgment of this Court dated 22.04.2016 in W.P.No.17231 of 2015.

For Petitioner : M/s.K.Nithyashree

For Respondents : Mr.S.Silambanan
Additional Advocate General assisted by
M/s.C.Sangamithirai
Special Government Pleader

ORDER

*(Order of the Court was delivered by Hon'ble Mr.Justice **K.KUMARESH BABU**)*

The instant writ petition has been filed seeking for direction to the first respondent to frame guidelines for issuance of Scheduled Tribes community certificate to the people belonging to Kurumans community, based on the judgment of this Court in W.P.No.17231 of 2015 dated 22.04.2016.



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2. The issuance of community certificate has always been a matter of serious concern. It has been brought to light that instances of persons belonging to a general category or any other category by one way or the other had obtained community certificates claiming themselves to be Scheduled Tribes or Scheduled Caste. In view of this mushrooming growth, the Hon'ble Apex Court in a judgment reported in **1994 (6) SCC 241 (Kumari Madhuri Patil Vs. Additional Commissioner, Tribal Welfare)**, had laid down the following guidelines:-

“16.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 non-gazetted officer with particulars of castes and sub-castes, tribe, tribal community, parts or groups of



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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



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collect all the 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 to



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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



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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



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making false claim. If the prosecution ends in a conviction and sentence of 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.”

3. The said guidelines have been affirmed by the Hon'ble Apex Court in various cases thereafter. This Court in the case of ***G.Venkitasamy Vs. The Chairman, State Level Scrutiny Committee*** reported in ***2016 (1) CTC 647***, had issued supplemental guidelines, which are extracted hereunder:-

“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.



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

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

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

v. *The Vigilance Cell, as constituted, shall investigate into the social status claim of the applicant, visiting the local place of residence and original place from which the candidate hails and usually resides. The Vigilance Officer, assisted by the Inspector of Police, shall verify all the documents and collect relevant facts in an open and transparent manner from all the relevant places such as school, locality, etc. and persons such as parents and close relatives and also examine the school officials, parents/guardians and other*



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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



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4. Thereafter, a Division Bench of this Court in **W.P.Nos.17231, 17232, 17495 and 17496 of 2015 (P.Govindarasu and G.Ramasamy Vs. The Revenue Divisional Officer, Harur, Dharmapuri District) dated 22.04.2016**, had issued further guidelines, which reads as follows:-

“i) *The competent authority while issuing the community certificate, should consider the Scheduled Tribe community certificate issued in favour of the parents and close relatives of the applicants, subject to verification of the relationship and until the above certificates are cancelled by the higher authority namely State Level Scrutiny Committee, the competent authority should accept the same and issue Scheduled Tribe Community Certificate to the applicants.*

ii) *The competent authority should not reject the application referring the name of Kurumbar (MBC) while deciding the claim for issuance of Kurumans (ST) community certificate as authorities are not entitled to refer the name of Kurumbar (MBC) for the purpose of deciding the issue of granting Kurumans (ST) Community Certificate.”*



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5. We while dealing with a claim for a Scheduled Tribe community certificate in ***W.P.Nos.2828 and 5237 of 2022 (E.Karthikeyan and L.Elumalai Vs. The Chairman, Tamil Nadu State Level Scrutiny Committee-III, Chennai) dated 25.11.2022***, have come across various infirmities in the functioning of the State Level Scrutiny Committee. We had specifically directed the State Level Scrutiny Committee to comply with the various guidelines apart from issuing further directions. For better appreciation, the relevant paragraphs from our judgment have been extracted hereunder:-

“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:



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(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.

(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.”

6. Even though the Hon'ble Apex Court had suggested framing of legislation to control the menace of people obtaining the community certificates, for which they were not entitled to, but till date the State of Tamil Nadu had not framed any legislation hitherto. In spite of the Government Order in G.O.(Ms.) No.106, Adi



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Dravidar and Tribal Welfare (CV I0 Department dated 15th October, 2012, We find that the same has not been applied in its letter and spirit and the Government Order was considered to be not exhaustive by the Division Bench of this Court and further directions have also been issued. Apart from that, it is noticed by this Court that the Government had issued various Government Orders, circulars and letters indicating/issuing guidelines, the manner in which the applications have to be made and the manner in which such applications have to be considered and disposed of. The said Government Orders, circulars and letters in our opinion will also have to be consolidated and given a final shape.

7. In the light of the aforesaid findings, We direct the Government to issue a manual in conformity with

(a) the guidelines issued in ***Kumari Madhuri Patil Vs. Additional Commissioner, Tribal Welfare*** reported in ***1994 (6) SCC 241***;

(b) the supplemental guidelines issued in ***G.Venkitasamy Vs. The Chairman, State Level Scrutiny Committee*** reported in ***2016 (1) CTC 647***;



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(c) the additional guidelines issued in *W.P.Nos.17231, 17232, 17495 and 17496 of 2015 (P.Govindarasu and G.Ramasamy Vs. The Revenue Divisional Officer, Harur, Dharmapuri District) dated 22.04.2016;*

(d) the directions issued in *W.P.Nos.2828 and 5237 of 2022 (E.Karthikeyan and L.Elumalai Vs. The Chairman, Tamil Nadu State Level Scrutiny Committee-III, Chennai) dated 25.11.2022;*

(e) the various Government Orders, circulars, letters and clarifications issued by the Government from time to time;

Such exercise shall be completed by the first respondent within a period of eight weeks from the date of receipt of a copy of this order.

8. We also are of the view that the Government should conduct sensitization courses to the Authorities in-charge of grant of community certificate and the verification as to the guidelines issued by the Government and the various judgments of the Hon'ble Apex Court as well as this Court in issuing the community certificate and verification of the same. We are hopeful that the Government will



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implement the directions issued above to ensure the elimination of grant of community certificates to ineligible persons and grant the community certificates to the persons belonging to the communities notified in the Presidential Order.

9. With the above directions, the Writ Petition is disposed of. However, there shall be no order as to costs.

(R.S.M., J.) (K.B., J)
16.12.2022

Speaking : Yes / No
Non Speaking : Yes / No

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To

1. The Chief Secretary,
Government of Tamil Nadu,
Secretariat,
Fort St. George,
Chennai-9.

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2. The Director,
Department of Tribal Welfare,
PWD Estate,
Chepauk,
Triplicane,
Chennai 600 005.
3. The Principal Secretary/
Commissioner of Revenue Administration,
Commissionerate of Revenue Administration,
Ezhilagam,
Chepuak, Chennai -5.

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

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**Pre-delivery order made in
W.P.No.13851 of 2022**

16.12.2022