



W.P. No. 16247 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 21.09.2022

Pronounced on : 02.12.2022

CORAM

**THE HON'BLE MR. T. RAJA,
ACTING CHIEF JUSTICE**

AND

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 16247 of 2022

and

W.M.P. Nos. 15595 and 15596 of 2022

Balakrishna Vilas Aided Primary School,
Rep. by its Secretary T.Krishnamurthy,
No. 1, Dharmalingam Street,
Linemdu,
Salem – 636 001.

... Petitioner

-VS-

1. The District Collector/Chairman,
District Vigilance Committee,
Collectorate,
Salem.
2. The Revenue Thasildar,
Salem.
3. The District Elementary Education Officer,
District Collector Campus,
Salem.

4. V.Jayanthi

... Respondents



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the entire records relating to the order passed in Na. Ka. No. 15708/2018/BC6 dated 02.06.2022 on the file of the First Respondent and quash the same.

For Petitioner : Mr. P.Chandrasekaran
for Mr. L.P.Shanmugasundaram

For Respondents : Mr. K.V.Sajeevkumar,
Special Government Pleader
(for R1 to R3)

Mr. S.N.Ravichandran (for R4)

ORDER

(Order of the Court was made by **P.D. AUDIKESAVALU, J.**)

We have heard Mr. P.Chandrasekaran, Learned Counsel appearing for the Petitioner, Mr. K.V.Sajeevkumar, Learned Special Government Pleader appearing for the First to Third Respondents and Mr. S.N.Ravichandran, Learned Counsel for the Fourth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner is a private School receiving grant-in-aid from the Government of Tamil Nadu for payment of salaries to its teachers and the Fourth



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Respondent was appointed against a vacancy in the post of Secondary Grade

Teacher in the School of the Petitioner by order dated 19.08.1996. According to the Petitioner, the post in which the Fourth Respondent was appointed has been exclusively reserved for persons belonging to Most Backward Class and that Community Certificate No. 686684 dated 16.06.1989 issued by the Special Tahsildar, Salem to the effect that the Fourth Respondent belongs to Tholuva Naicker Community, which is recognized as Most Backward Class as per G.O. Ms. No. 242, Backward Classes Welfare, Nutritious Meal Programme and Social Welfare Department dated 28.03.1989 vide Sl. No. 33, is not genuine and had been sent for verification to the District Level Vigilance Committee, Salem. However, the District Level Vigilance Committee, Salem by Proceedings in Na. Ka. No. 15708/ 2018/BC6 dated 02.06.2022 held that the Fourth Respondent, belongs to 'Thozhuva Naicker Community' which comes under the list of Most Backward Classes in the State of Tamil Nadu and the said Community Certificate issued to her was genuine. The said order is challenged in this Writ Petition.

3. It is borne out from the materials placed on record that there have been various disputes and related litigations between the Petitioner and the Fourth



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Respondent, but reference to the same is not necessary in this Writ Petition,

which is confined to the validity of the impugned order upholding the communal status of the Fourth Respondent.

4. The primordial contention of the Petitioner in this Writ Petition is that it was the Petitioner who had complained that the Fourth Respondent does not belong to Thozhuva Naicker Community, but the District Level Vigilance Committee, Salem before passing the impugned order confirming such communal status, had not been afforded any opportunity of personal hearing to the Petitioner in that proceedings.

5. It must, at once, be pointed out that the District Level Vigilance Committee, Salem has arrived at the conclusion that the Fourth Respondent belongs to the Thozhuva Naicker Community based upon various documents produced in proof thereof and the local enquiry conducted in that regard. It has been further explained by the First Respondent in the Counter-Affidavit dated 17.08.2022 that the Tholuva Naicker Community had been earlier recognized as Backward Class in G.O. Ms. No. 437 dated 15.05.1972 and after creation of 'Most Backward Classes', in G.O. Ms. No. 242, Backward Classes Welfare,



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Nutritious Meal Programme and Social Welfare Department dated 28.03.1989, it

has been re-classified as Most Backward Class vide Sl. No. 33. It is also evident that the Fourth Respondent holds a Community Certificate to the effect that she belongs to the 'Thozhuva Naicker Community' which has been classified as Most Backward Class and the same has been confirmed by the District Level Vigilance Committee, Salem.

6. Having due regard to this fact situation, if the Petitioner disputes that the Fourth Respondent does not belong the Thozhuva Naicker Community, it is certainly incumbent upon him to place the materials to show that the Fourth Respondent does not belong to such caste and cannot claim any right to be appointed in a post reserved for Most Backward Class. The Petitioner has not specifically pleaded or claims to have any evidence to show that the Fourth Respondent does not belong to 'Thozhuva Naicker Community' which has been included in the list of Most Backward Class in the State of Tamil Nadu. In that view of the matter, there does not appear to be any infirmity in the decision-making process of the First Respondent invalidating the impugned order warranting interference by this Court in the exercise of discretionary powers of judicial review under Article 226 of the Constitution.



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In fine, the Writ Petition, which lacks merits, is dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

(T.R., ACJ.) (P.D.A., J.)

02.12.2022

vjt

Index: Yes/No

To

1. The Principal Secretary to Government of Tamil Nadu,
Highways & Minor Ports (HF2) Department,
Fort St. George,
Chennai.
2. The District Revenue Officer (Land Acquisition),
Chennai Outer Ring Road Scheme,
Chennai Metropolitan Development Authority,
Koyambedu,
Chennai – 600 092.
3. The Project Director,
Tamil Nadu Road Transport Development Company,
Greenways Road, R.A. Puram,
Chennai – 600 028.
4. The Special Thasildar (Land Acquisition),
Chennai Outer Ring Road Scheme,
Tambaram East,
Poonamalee.



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**T.RAJA, ACJ.
AND
P.D. AUDIKESAVALU, J.**

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