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W.P.No.24413 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2022

CORAM

THE HONOURABLE Mr.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE Mr.JUSTICE KUMARESH BABU

W.P.No.24413 of 2022
and WMP.No.23504 of 2022

S.Koothaiyan

.... Petitioner

Vs

1.The Tamil Nadu State

Level Scrutiny Committee - II

Adi Dravidar and Tribal Welfare Department

Namakkal Kavingar Maligai

Secretariat, Chennai - 600 009.

2.The Revenue Divisional Officer

Thiruvarur District

Thiruvarur - 610 001.

3.The Tahsildar

Nannilam, Thiruvarur District

Thiruvarur - 610 105.

4.The Principal General Manager

BSNL, Balaji Nagar

Medical College Road

Thanjavur - 613 007.

.... Respondents



W.P.No.24413 of 2022

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings on the file of the first respondent in 9719/CV-3(1)/2020-6 dated 04.07.2022 and quash the same as well as directing the third respondent to issue new community certificate by rectifying the mistake.

For Petitioner : Ms.S.Pooja Shree
For Respondents : Mrs.C.Sangamithirai
Special Government Pleader for R1
Mr.Vadivelu Deenadayalan
Additional Government Pleader for R2 & R3

ORDER

[Order of the Court was made by R.SUBRAMANIAN.J]

The challenge is to the order of the State Level Scrutiny Committee concluding that the certificate issued to the petitioner certifying that he belongs to 'Malaikuravar' a Scheduled Tribe community is not genuine.

2. The petitioner who is now aged 64 years was certified to belong to 'Malaikuravar' community which is a Scheduled Tribe. The petitioner based on that certificate secured employment with 'Bharat Sanchar Nigam Limited' in the year 1981. While in service, the petitioner's certificate was sought to be verified by the employer, originally, on 21.01.2016. Since no action was taken

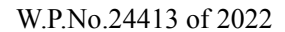


W.P.No.24413 of 2022

by the State Level Scrutiny Committee, a reminder was sent on 10.09.2019.

Thereafter, the State Level Scrutiny Committee took up the issue of verification of the certificate of the petitioner. Following the procedure laid down by the Hon'ble Supreme Court in ***Kumari Madhuri Patil and Another v. Addl. Commissioner, Tribal Development and Others***, reported in (1996) 6 SCC 241, the State Level Scrutiny Committee called for report from the District Level Vigilance Committee and the Anthropologist. Both of them submitted their reports concluding that the certificate issued to the petitioner is genuine. However, the petitioner was asked to appear for enquiry by the State Level Scrutiny Committee on 14.06.2022, and during enquiry, the Anthropologist/Member of the said Committee who enquired the petitioner concluded that he does not belong to Scheduled Tribe Community and based on the said conclusion, the State Level Scrutiny Committee held that the certificate issued to the petitioner is not genuine. Hence, the petitioner is before this Court.

3. We have heard Ms.S.Pooja Shree, learned counsel appearing for the petitioner and Mrs.C.Sangamithirai, learned Special Government Pleader appearing for first respondent and Mr.Vadivelu Deenadayalan, learned Additional Government Pleader for respondents 2 and 3.



5. The learned counsel would contend that in the absence of a finding that the report of the Anthropologist or the Vigilance Committee are procured or have been fraudulently obtained, the State Level Scrutiny Committee cannot conclude that the certificate is not genuine based on other materials. Our attention is also drawn to the judgement of this Court in ***G.Venkitasamy and another v.The Chairman, State Level Scrutiny Committee*** reported in ***2016-1-L.W.289***, wherein the Hon'ble Division Bench has explained the procedure set



W.P.No.24413 of 2022

out in ***Kumari Madhuri Patil case***, which is as follows :

'29. From the aforestated analysis, it is manifest that the authorities are required to investigate, identify and conduct the enquiry in the following manner:

- i.
- ii.
- iii.
- iv.
- v.
- 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.**"(Emphasis supplied)*

Relying upon the above observations of the Division Bench and the directions contained in ***Kumari Madhuri Patil case***, the learned counsel for the petitioner would submit that the impugned order is in violation of the settled position of law and therefore, it needs to be set aside.

6. Contending contra, Mrs.C.Sangamithirai, learned Special Government



W.P.No.24413 of 2022

Pleader appearing for the State Level Scrutiny Committee would submit that though the District Level Vigilance Committee and have given the reports in favour of the petitioner, it is well open to the Scrutiny Committee to go into the correctness of the certificate. The Anthropologist Member of the State Level Scrutiny Committee has found that the petitioner was unable to answer certain questions regarding the practices of the Scheduled Tribe to which he claims to be belonging to. Therefore, according to the learned Special Government Pleader, the action of the State Level Committee in concluding that the certificate is not genuine has to be sustained.

7. We have considered the rival submissions. The Hon'ble Supreme Court in ***Kumari Madhuri Patil case***, has defined the contours of the enquiry by the State Level Scrutiny Committee in the process of verification. Sub-paragraph 7 of paragraph No.13 which contains the directions clearly stipulates that the findings of the report of the District Level Vigilance Committee and the Anthropologist are binding on the State Level Scrutiny Committee, unless the State Level Scrutiny Committee finds that these reports have been obtained fraudulently or procured. Upon considering the judgment in ***Kumari Madhuri Patil case*** and the judgment of the Hon'ble Supreme Court in ***Anand vs.***



W.P.No.24413 of 2022

Committee for Scrutiny and Verification of Tribe Claims and Others [(2012) 1

SCC 113] wherein the Hon'ble Supreme Court has laid down the broad parameters / requirements and the powers of the State Level Scrutiny Committee in the process of verification of the genuineness of the Community Certificate, the Hon'ble Division Bench of this Court in its judgment in ***G.Venkitasamy and another v. The Chairman, State Level Scrutiny Committee***, as stated supra, has manifested the manner in which the authorities are required to conduct the enquiry. It is therefore clear that the law is well settled to the effect that the State Level Scrutiny Committee is bound by the reports of the District Level Vigilance Officer and Anthropologist, unless it reaches the conclusion that those reports have been procured or obtained fraudulently, it has to accept those reports and no further enquiry is contemplated.

8. Therefore, we do not think that we can sustain the impugned proceedings of the State Level Scrutiny Committee dated 04.07.2022. The writ petition stands allowed. The proceedings of the State Level Scrutiny Committee dated 04.07.2022 will stand set aside and the conclusion of the State Level Scrutiny Committee that the certificate is not genuine will also stand set aside and the certificate issued to the petitioner will be treated as genuine for all



W.P.No.24413 of 2022

purposes in the light of the District Level Vigilance Report that it is genuine. No costs. Consequently, connected miscellaneous petition is closed.

[RSMJ] [KBJ]
17.10.2022

Index : Yes / No

Speaking order / Non-speaking orders

To:

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W.P.No.24413 of 2022

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KUMARESH BABU.J.,

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