



W.P.No.23397 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2022

CORAM:

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

W.P.No.23397 of 2019
and
W.M.P.No.23161, 23162 & 23166 of 2019

1.T.K.Kariyappan

2.K.Kirubanandhan

...Petitioners

Vs.

1.The Tamil Nadu State Level
Scrutiny Committee – II,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai – 600 009,

2.The Collector,
Dharmapuri District,
Dharmapuri.

3.The Revenue Divisional Officer,
Dharmapuri, Dharmapuri District.

4.Tamil Nadu Public Service Commission,
Frazer Bridge, Park Town,
Chennai – 600 003,
Rep. By its under Secretary

..Respondents



W.P.No.23397 of 2019

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorarified Mandamus, calling for the records relating to the Tamil Nadu State Level Scrutiny Committee in proceedings No.10876/CVIII/2017-7, dated 25.07.2019 on the file of the 1st respondent, quash the same and direct the 3rd respondent to issue community certificate to the petitioner and his two sons viz. K.Kirubanandhan and K.Mahendiran.

For Petitioner : Mr.V.Elangovan

For Respondents : Mrs.C.Sangamithirai

Special Government Pleader for R1 to R3

Ms.G.Hema, Standing Counsel for R4

ORDER

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

Challenge in the Writ Petition is to the order of the State Level Scrutiny Committee concluding that the petitioner does not belong to Kurumans, a Scheduled Tribes community as per the presidential notification.

2.The petitioner sought for community certificate for himself and his two sons. One of the sons namely, Mahendran is no more and therefore,



W.P.No.23397 of 2019

these proceedings are restricted to two petitioners, who are father and son.

The claim of the petitioners for a community certificate was rejected by the Revenue Divisional Officer, Dharmapuri on 28.11.2015. The said order was subject matter of challenge in W.P.No.18360 of 2016 before this Court. A Division Bench of this Court, which considered the claim concluded that the rejection is improper and while setting aside the order directed the State Level Scrutiny Committee to verify the applications and forward a report within a period of one month from the date of receipt of a copy of this order and directed the Revenue Divisional Officer to issue certificates within a period of one month thereafter.

3. Consequent upon such directions, the State Level Scrutiny Committee launched investigation and the Vigilance Cell attached to the State Level Scrutiny Committee was required to enquire into the communal status of the petitioners and report. An Anthropologist was also appointed with a directions to report on the communal status of the petitioners. The Vigilance Cell by its report dated 28.12.2017, after adhering to the various guidelines issued by the Hon'ble Supreme Court in **Kumari Madhuri Patel**



W.P.No.23397 of 2019

Vs. Additional Commissioner, Tribal Development reported in 1994 (6)

WEB C

SCC 241, concluded that the petitioners belong to the Scheduled Tribes called “Kurumans”. The Anthropologist also was of the same opinion. The State Level Scrutiny Committee chose to rely upon the reports of the Revenue Divisional Officer and the District Collector of the year 2015 and 2017 respectively to conclude that the petitioners do not belong to the Scheduled Tribes community called “Kurumans”. It is this proceeding, which is subject matter of challenge in this Writ Petition.

4. We have heard Mr.V.Elangovan, learned counsel for the petitioner, Mrs.C.Sangamithirai, learned Special Government Pleader appearing for the respondents 1 to 3 and Mrs.G.Hema, learned Standing Counsel appearing for the 4th respondent.

5. The learned counsel appearing for the petitioner relied upon the judgment of the Hon'ble Supreme Court in **Dayaram Vs. Sudhir Batham & others** reported in **2011 (6) CTC 192** and the judgment of the Hon'ble Division Bench of this Court in **G.Venkitasamy and Another Vs. The**



W.P.No.23397 of 2019

Chairman, State Level Scrutiny Committee reported in 2016 (1) MLJ

606 to contend that once District Level Vigilance Committee and the Anthropologist report is favourable to the petitioner, there is no question of any further enquiry by the State Level Scrutiny Committee. The learned counsel would draw our attention to the following observations of the Hon'ble Supreme Court in Dayaram's case in support of his submission:-

*“22.Each Scrutiny Committee has a Vigilance Cell which acts as the investigating wing of the committee. The core function of the Scrutiny Committee, in verification of Caste Certificates, is the investigation carried on by its vigilance cell. When an Application for verification of the Caste Certificate is received by the Scrutiny Committee, its vigilance cell investigates into the claim, collect the facts, examines the records, examines the relations or friend and persons who have knowledge about the social status of the candidate and submits a report to the Committee. **If the report supports the claim for caste status, there is no hearing and the caste claim is confirmed.** If the report of the vigilance cell discloses that the claim for the social status claimed by the candidate was doubtful or not genuine, a show-cause notice is issued by the Committee to the candidate. After giving due opportunity to the candidate to*



place any material in support of his claim, and after making such enquiry as it deems expedient, the Scrutiny Committee considers the claim for caste status and the vigilance cell report, as also any objections that may be raised by any opponent to the claim of the candidate for caste status, and passes appropriate orders. The Scrutiny Committee is not an Adjudicating Authority like a Court or Tribunal, but an administrative body which verifies the facts, investigates into a specific claim (of caste status) and ascertains whether the caste/tribal status claimed is correct or not. Like any other decisions of Administrative Authorities, the orders of the Scrutiny Committee are also open to challenge in proceedings under Article 226 of the Constitution.”

6. Reliance is also placed on the judgment of the Hon'ble Division Bench of this Court in **G.Venkitasamy and Another Vs. The Chairman State Level Scrutiny Committee** reported in **2016 (1) MLJ 606** wherein, it has observed as follows:-

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



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.*

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 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.



W.P.No.23397 of 2019

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.”

7. In view of the above categorical pronouncements of the Hon'ble Supreme Court as well as the Division Bench of this Court, it is clear that the State Level Scrutiny Committee has over stepped and has undertaken the role of an investigating agency to conclude that the petitioners do not belong to the Scheduled Tribe by relying upon reports which were subject matter of the earlier decision of this Court, which went in favour of the petitioners.

8. We are therefore, constrained to interfere and set aside the order of the State Level Scrutiny Committee. We have already adverted to the fact that both the District Level Vigilance Committee and the Anthropologist have affirmed the community of the petitioners as “Kurumans”. Hence, this Writ Petition is allowed, the order of the State Level Scrutiny Committee will stand set aside. There will be a direction to the Revenue Divisional Officer, Dharmapuri namely, the 3rd respondent to issue community certificate to the petitioners to the effect that they belong to “Kurumans”, a Scheduled Tribe.



W.P.No.23397 of 2019

The certificate shall be issued within a period of four weeks from the date of receipt of a copy of this order.

9.We are informed that the 2nd petitioner has been provisionally selected for the post of Village Administrative Officer (VAO) but the appointment orders have not been issued because of the pendency of this Writ petition. We make it clear that upon production of the community certificate issued by the Revenue Divisional Officer, the petitioner shall be offered the post of Village Administrative Officer.

10.This Writ Petition is allowed with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

(R.S.M.,J.) (K.B.,J.)
19.10.2022

kkn

Internet:Yes/No

Index:Yes/No

Speaking/Non-speaking order

10/13



WEB COPY



W.P.No.23397 of 2019

To:-

- 1.The Tamil Nadu State Level
Scrutiny Committee – II,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai – 600 009,
- 2.The Collector,
Dharmapuri District,
Dharmapuri.
- 3.The Revenue Divisional Officer,
Dharmapuri, Dharmapuri District.
- 4.The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge, Park Town,
Chennai – 600 003.



WEB COPY



W.P.No.23397 of 2019

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

KKN

W.P.No.23397 of 2019
and
W.M.P.No.23161, 23162
& 23166 of 2019



WEB COPY



W.P.No.23397 of 2019

19.10.2022