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W.P.No.25598 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2022

CORAM:

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

Writ Petition No.25598 of 2021
and
W.M.P.Nos.27022 & 27023 of 2021

R.Kalyani

...Petitioner

Vs.

1. The Tamil Nadu State Level Scrutiny Committee II,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavignar Maligai,
Secretariat, Chennai – 600 009,
Rep. by its Chairman.

2. Food Corporation of India,
Regional Office,
No.8, Mayor Sathyamoorthy Road,
Chetpet, Chennai 600 031.
Rep. by General Manager

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
seeking issuance of a Writ of Certiorarified Mandamus, calling for the records



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relating to the Tamil Nadu State Level Scrutiny Committee in Proceedings

No.5853/CV-6/2019-10, dated 11.10.2021 on the file of the first respondent and the consequential order of termination passed by the second respondent in proceedings No.E.1/3(3)/2017RK/SLVC dated 21.03.2019 quash the same and direct the second respondent to reinstate the petitioner into service with all attended benefits.

For Petitioner : Mr.S.Doraisamy

For Respondents : Ms.C.Sangamithirai
Special Govt. Pleader, for R1

Mr.M.Imthias, for R2

ORDER

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

Challenge in the Writ Petition is to the order of the State Level Scrutiny Committee dated 11.10.2021, concluding that the Community Certificate issued to the petitioner certifying that she belongs to Scheduled Tribe Hindu Kurumans, is not genuine.



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2.The petitioner obtained a certificate to the effect that she belongs to a Scheduled Tribe of Hindu Kurumans from the Tahsildar, Perambur, Purasawalkam Taluk on 13.07.1984. She was appointed as a Messenger in the Food Corporation of India, Cuddalore District Office on 29.04.1997, in the quota meant for Scheduled Tribes. She was transferred to the Regional Office at Chennai subsequently. The employer referred the Certificate for verification to the District Level Vigilance Committee.

3. The District Level Vigilance Committee concluded that the petitioner's claim is not genuine vide its order dated 16.12.2004. This was challenged by the petitioner in WP No.39569 of 2004, and the Writ Petition came to be allowed by this Court on 26.07.2005 and the matter was referred to the three Member District Level Vigilance Committee. In the meantime, the Government passed G.O.Ms.No.108 under which the State Level Scrutiny Committee was constituted. Therefore, the State Level Scrutiny Committee took up the matter for examination and called for a report from the District Level Vigilance Cell. The District Level Vigilance Cell submitted a Report on



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29.06.2018 to the effect that the claim of the individual that she belongs to Hindu Kurumans is genuine. However, the Anthropologist concluded that the claim is not genuine.

4. Based on the same, the State Level Scrutiny Committee passed an order concluding that the claim of the petitioner is not genuine on 08.03.2019. The said order was challenged in WP No.8850 of 2019, a Division Bench of this Court after exhaustively considering the rival contentions concluded as follows:

“28. In our view, therefore, a report from the Tahsildar from the Shimoga District, Badhravathi, Harabilicherry, Karnataka should be obtained confirming whether the petitioner's family indeed belongs to “Hindu-Kurumans” Scheduled Tribe Community in Karnataka. If such a report is given in favour of the petitioner, the said Community Certificate granted to the petitioner can be treated as having given validly.

We are therefore of the view that the impugned order



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passed by the 1st respondent merely based on the cultural traits of the petitioner as observed by the anthropologist by itself was not sufficient and is therefore liable to be set aside.”

After observing so this court remitted the matter to the State Level Scrutiny Committee for reconsideration.

5. The State Level Committee took up the exercise of verification pursuant to the order of the Division Bench referred to supra. A reference was made to the Tahsildar, at Shimoga District seeking clarity on the communal status of the petitioner. The Tahsildar, Shimoga District, sent a reply stating that the father of the petitioner lived there and migrated to Tamil Nadu in 1960-1961. He also expressed his inability to issue any firm opinion since he had no documents justifying the claim of the petitioner. However, the petitioner was able to produce the Community Certificate of his daughter and son issued by the very same Tahsildar evidencing that they belonged to Hindu Kurumans, a Scheduled Tribe Community.



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6.The State Level Scrutiny Committee which took up the enquiry pursuant to the order of the Division Bench, in our opinion, has given a go by to the directions of the Division Bench and stuck to the very same reasoning it assigned in its order dated 08.03.2019, in the order that is impugned in this Writ Petition also.

7. From the relevant portion of the judgment of the Division Bench extracted above, it is clear that the Division Bench has directed the State Level Scrutiny Committee to consider the other material available and not to go by the opinion of the Anthropologist alone. Therefore, it becomes obligatory on the part of the State Level Scrutiny Committee, to look into the other material that is provided in the form of a Vigilance Cell Report which has been totally sidelined. A perusal of the orders of the State Level Scrutiny Committee impugned herein shows that the Report of the District Level Vigilance Cell has not been considered at all and the Committee has gone by the Report of the Anthropologist and the examination of the petitioner before it by the Anthropologist Member of the State Level Scrutiny Committee. This, in our opinion, is in clear violation of the orders of the Division Bench,



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cited supra.

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8. Needless to point out that this Court has time and again held that the report of the Anthropologist is only a supportive document and it cannot be treated as a conclusive document, particularly in cases where a migration has happened long back and the petitioner has been living in urban environment for substantially long time. In the case on hand there is a clear evidence to point out that the family of the petitioner has migrated to Chennai even in the year 1960-1961 and thereafter the petitioner has been favoured with the Certificates here by the Tahsildar, Puraisaiwakkam in 1984 itself. Therefore, to rely upon the answers given by the petitioner to questions based on the cultural habits of the Community cannot form the basis for determination of her community.

9. Reference could be made to our judgment in WP No.2828 of 2022 dated 25.11.2022 in this regard, wherein we have held that the Report of the Anthropologist could only be treated as another piece of material in deciding the entire issue. In ***G.Venkitasamy and Another Vs. The Chairman***



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State Level Scrutiny Committee reported in *2016 (1) MLJ 606*, and in

T.K.Kariyappan and other Vs. The Tamil Nadu State Level Scrutiny

Committee – II, in WP No.23397 of 2019, this Court had reiterated that once the District Level Vigilance Cell concludes that the claim is genuine, the State Level Scrutiny Committee cannot interfere with the said conclusion unless it comes to the conclusion that the Report has been obtained fraudulently. Despite our earnest search, we are unable to find any such conclusion reached by the State Level Scrutiny Committee, in the order impugned in the Writ Petition, to the effect that the Report of the District Level Vigilance Cell is fraudulent.

10. In *G.Venkitasamy and Another Vs. The Chairman State Level Scrutiny Committee*'s case, a Division Bench of this Court had clearly pointed out that once the District Level Vigilance Cell concludes in favour of the petitioner there can be no further enquiry, unless the State Level Scrutiny Committee comes to the conclusion, that the report is fraudulent then it is open to the Committee to issue notice to the petitioner and proceed further in accordance with law. In the absence of such conclusion, we do not think that



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the State Level Scrutiny Committee was right in taking a different view from that of the District Level Vigilance Cell.

11. We are therefore constrained to interfere and set aside the order of the State Level Scrutiny Committee. We conclude that the Certificate issued to the petitioner is genuine. The Writ Petition will stand allowed. The employer second respondent is directed to reinstate the petitioner with all service benefits. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

(R.SUBRAMANIAN, J.) (K.KUMARESH BABU, J.)
28.11.2022

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Speaking Order
jv



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To

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

2. The General Manager,
Food Corporation of India,
Regional Office, No.8, Mayor Sathyamoorthy Road,
Chetpet, Chennai 600 031.



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