



WEB COPY



W.P.No.27215 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2022

CORAM:

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

W.P.No.27215 of 2022
and
W.M.P.No.26416 of 2022

L.Nagaraj

...Petitioner

Vs.

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

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

..Respondents

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 order passed by the Tamil Nadu State Level Scrutiny Committee – II in Proceedings No.13282/CV-3/2019-21, dated 24.06.2022 on the file of the 1st respondent, quash the same and direct the 2nd respondent to issue community certificate to the petitioner and his children viz. Kurichchan (ST) community.



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For Petitioner : Mr.S.Doraiswamy
For Respondents : Mr.S.Silambannan
Additional Advocate General assisted by
Ms.C.Sangamithirai
Special Government Pleader

ORDER

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

The petitioner is aggrieved by the rejection of his request for grant of community certificate, certifying him as a Scheduled Tribe belonging to Hindu “Kurichchan” community. The petitioner's application was rejected by the Revenue Divisional Officer, Dharmapuri on 25.02.2014. As against the said order, the petitioner preferred an appeal before the District Collector, Dharmapuri, which was rejected on 24.07.2019.

2.The petitioner filed an appeal before the State Level Scrutiny Committee on 11.11.2019. The State Level Scrutiny Committee referred the matter to the Deputy Superintendent of Police, Scheduled Tribes / Scheduled Castes Vigilance Cell, Salem Region and sought for a report.



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The matter was also referred to an Anthropologist for carrying out the enquiry as required by the procedure evolved by the Hon'ble Supreme Court in **Kumari Madhuri Patel Vs. Additional Commissioner, Tribal Development** reported in **1994 (6) SCC 241**. The District Level Vigilance Committee filed a report stating that petitioner's claim is not genuine. However, the Anthropologist found that the petitioner belongs to the Schedule Tribe community of “Kurichchan”.

3.In the appeal before the State Level Scrutiny Committee, the petitioner essentially relied upon an order passed by the State Level Scrutiny Committee on 24.03.2020, concluding that the claim of the petitioner's own blood brother, L.Moorthi that he belongs to “Kurichchan”, a Scheduled Tribe community is genuine. The State Level Scrutiny Committee upon analysis of the material placed before it namely, report of the District Vigilance Cell as well as the report of the Anthropologist, chose to accept the report of the District Vigilance Cell and conclude that the claim of the petitioner that he belongs to Hindu “Kurichchan”, a Scheduled Tribe Community is not genuine.



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4.Mr.S.Doraiswamy, learned counsel appearing for the petitioner would vehemently contend that once the petitioner's brother has been certified as a person belonging to Scheduled Tribe community by the very State Level Scrutiny Committee, the conclusion of the Committee otherwise in the case of the petitioner cannot be sustained.

5.The learned counsel would also place reliance on the judgment of the Hon'ble Division Bench of this Court in **P.Vinoth Vs. The Sub-Collector, Ranipettai** reported in **2012 Writ L.R. 474** in support of his submission that once close relatives has been favoured with the certificate and on verification, the certificate is found to be genuine, the State Level Scrutiny Committee has to be adopt the same view and it cannot reject the claim of the petitioner.

6.The learned counsel would also draw our attention to the judgment of another Hon'ble Division Bench of this Court in **N.Kanagaraj Vs. Tamil Nadu State Level Scrutiny Committee and Another** dated 30.01.2018 in support of his contention. In **State of Bihar Vs. Sumit**



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Anand reported in **(2005) 12 SCC 248**, the Hon'ble Supreme Court has also pointed that once the close relative has been favoured with a certificate, the claim of the petitioner should not be rejected.

7.Contending contra, Mrs.C.Sangamithirai, learned Special Government Pleader appearing for the State Level Scrutiny Committee would submit that the records relating to the other relatives of the petitioner, which shows that they do not belong to the Scheduled Tribe Community were not placed before the committee when it considered the claim of the brother of the petitioner. We have considered the rival submissions.

8.In fact, in Sub-paragraph 3 of Paragraph 13 of the order impugned in the Writ Petition, the State Level Scrutiny Committee has pointed out that birth register entries of the year 1947, 1949 & 1951 and school admission registers of the individual's father, brothers and sisters were not placed before the State Level Scrutiny Committee. That by itself, cannot be a ground to conclude that the report of the State Level Scrutiny Committee erroneous. We find from the order passed by the State Level



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Scrutiny Committee on 24.03.2020, the school admission records of the petitioner his sisters and paternal cousins were produced and they were considered by the State Level Scrutiny Committee. The State Level Scrutiny Committee when it considered the claim of the brother of the petitioner had over ruled the report of the District Vigilance Cell and concluded that the brother of the petitioner belongs to the Scheduled Tribe Community.

9.Apart from the above, we also find a factual error in the proceedings of the State Level Scrutiny Committee, which states that the Anthropologist has found that the petitioner does not belong to the Scheduled Tribe community. This statement is factually erroneous. The Anthropologist report that has been produced, it shows that the Anthropologist has reached the conclusion that the petitioner belongs to Scheduled Tribe community.

10.On an overall analysis of the documents that has been placed before us and the law laid down by this Court and the Hon'ble Supreme



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Court, we are unable to persuade ourselves to agree with the conclusions of the State Level Scrutiny Committee. Once the certificate of the brother of the petitioner has been verified and has been found to be genuine, the State Level Scrutiny Committee, in our opinion, was not justified in coming to different conclusion in the case of the petitioner.

11. We are constrained to allow the Writ Petition and quash the order of the State Level Scrutiny Committee. There will be a direction to the Revenue Divisional Officer, Dharmapuri to issue certificate to the petitioner and his children to the effect that they belong to the “Kurichchan”, a Schedule Tribe Community. Such certificate shall be issued within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.M.,J.) (K.B.,J.)
04.11.2022

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Internet: Yes/No
Index: Yes/No
Speaking/Non-speaking order

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

KKN

To:-

- 1.The Tamil Nadu State Level Scrutiny Committee – II,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingnar Maligai, Secretariat,
Chennai – 600 009, rep. By its Chairman
- 2.The Revenue Divisional Officer,
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