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W.P.No.32696 of 2019

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.32696 of 2019
and W.M.P.No.33112 of 2019 and 34911 of 2019

M.Ramamurthy

...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. The General Manager,
Bharat Sanchar Nigam Ltd.,
No.20-A, West Great Cotton Road,
Telephone Exchange Building,
Tuticorin 628 001.

3. The Collector,
Tirunelveli District, Tirunelveli -1.

R3 Impleaded as per order dated 20.01.2020
made in WMP No.34914/2019 in WP 32696/2019
by RPSJ, RPAJ

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the Tamil Nadu State Level Scrutiny Committee in Proceeding No 1686/CV-2/2014-13 dated 20.9.2019 which was received by the Petitioner on 18.11.2019 on the file of the first Respondent quash the same and direct the 2nd Respondent to extend all terminal benefits to the Petitioner.

For Petitioner : Mr. S.Doraiswanmy

For Respondents : Ms.C.Sangamithirai
Special Govt. Pleader, for RR1 & 3

Mr.S.Udayakumar,
Central Govt. Standing Counsel for R2

ORDER

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

Challenge is to the order of the State Level Vigilance Committee concluding that the Community Certificate issued to the petitioner certifying that he belongs to Hindu Sholaga, a Scheduled Tribe Community is not genuine.



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2. The petitioner was favoured with the Certificate to the effect that he belongs to Scheduled Tribe Community of Hindu Sholaga by the Tahsildar, Nanguneri, on 26.07.1974. The petitioner has got an employment with the Second respondent under the quota reserved for Scheduled Tribe Community. The Employer referred the Certificate for verification.

3. The State Level Scrutiny Committee by its order dated 03.01.2014 concluded that the petitioner's Certificate is not genuine. The same was challenged in WP No.1378 of 2014 before this Court. When the said Writ Petition was taken up for hearing, it was reported to the Division Bench that the Committee had decided to recall the said order and conduct an enquiry afresh. On being informed of this conclusion, the Division Bench recorded the same and remitted the matter for fresh disposal.

4. Even before the same, the District Level Vigilance Cell as well as the Anthropologist have sent their reports concluding that the claim of the petitioner that he belongs to Hindu Sholaga, a Scheduled Tribe Community



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is genuine. This Court has repeatedly held that once the District Level Vigilances Cell and the Anthropologist conclude that the certificate is genuine, the State Level Scrutiny Committee cannot go into the question once over again, unless it is found that the Report has been obtained fraudulently.

5. In ***G.Venkitasamy and Another Vs. The Chairman State Level Scrutiny Committee*** reported in ***2016 (1) CTC 647***, a Division Bench of this Court after exhaustive consideration of the scope of the enquiry conducted by the State Level Scrutiny Committee had concluded as follows:

“29. From the afore stated 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



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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.

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.”

The same position has been reiterated by us in ***T.K.Kariyappan, and others Vs. The Tamil Nadu State Level Scrutiny Committee – II, in WP No.23397 of 2019.***

6. In view of the aforesaid pronouncements, it is clear to our mind that the order of the State Level Scrutiny Committee needs to be set aside. We also find that there are several inconsistencies in the order of the State Level Scrutiny Committee. A reading of the Report of the District Level Vigilance Cell shows that the District Level Vigilance Cell has taken up the case of one Balakrishnan, as a material to verify the correctness of the records produced by the petitioner, since they relate to the years 1933 to 1938. The State Level Scrutiny Committee has misunderstood it, as if the Certificate issued to Balakrishnan has been relied upon by the District Level Vigilance Cell. Further, the description in the SSLC Certificate of the petitioner has been ignored or sidelined because the name of the community



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has been written in the column meant for Backward Classes.

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7. The petitioner cannot be held responsible for a commission or omission of an officer, who prepares the SSLC Book of the petitioner. While finding that the Community name is shown as a Sholaga, the State Level Scrutiny Committee would reject the said document on the ground that the name of the Community Sholaga has been written in the column for Backward Classes. This, in our opinion, is a clear error on the part of the State Level Scrutiny Committee. Similarly the State Level Scrutiny Committee has also rejected the Certificates of the individual's brothers and sister on the ground that his Community Certificate is being verified.

8. These anomalies would also strengthen our conclusion that the State Level Scrutiny Committee's order has to be set aside. Therefore, the Writ Petition is allowed, the order of the State Level Scrutiny Committee is set aside, the genuineness of the Certificate issued to the petitioner is



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confirmed. There will be a direction to the employer to release all retirement benefits of the petitioner within a period of two months from the date of receipt of a copy of this order. 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

Index: No
Internet: Yes
Speaking Order
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To

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3. The Collector,
Tirunelveli District, Tirunelveli -1.



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