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W.P.No.704 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU  
AND  
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.704 of 2022  
and  
W.M.P.No.761 of 2022

E.Mageswari  
D/o N.Elumalai

.... Petitioner

vs

1. The Tamil Nadu State Level Scrutiny Committee-III,  
Adi-Dravidar and Tribal welfare Department,  
Namakkal Kavingar Maligai,  
Secretariat,  
Chennai - 600 009  
rep. by its Chairman.

2. The Senior Superintendent of Post Offices,  
Chennai City South Division,  
Chennai -600 017.

.... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the order passed by the Tamil Nadu State Level Scrutiny Committee III in Proceedings No.10168/CV-4(1)/2011-9 dated 29.09.2021 on the file of the 1st respondent



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and quash the same.

For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.S.Mythreyechandru,  
Special Government Pleader for R1  
Mr.B.Ramprabu,  
Additional Central Government Standing  
Counsel for R2

### **ORDER**

(Order of the Court was made by J.NISHA BANU, J.,)

This Writ Petition has been filed challenging the order passed by the 1st respondent dated 29.09.2021, by which, the community certificate of the petitioner was cancelled.

2. The case of the petitioner is that she belongs to Kurumans community which is classified as scheduled tribe community. She obtained community certificate from the Assistant Collector, Chengalpattu on 19.09.2000 and he joined in the postal department on 01.06.2009 at Madipakkam as a Gramin Dak Savak Mail Deliverer on temporary basis and her service was regularised on 18.11.2020 and now, she is working as Multi Tasking Staff at Kodambakkam Post Office, Chennai. In the year 2018, the Deputy Superintendent of Police, Social Justice and Human Rights Wing,



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Kancheepuram District conducted an enquiry and verified the School records and examined the petitioner's relatives and parents and verified the documents produced by her. The Vigilance Cell Officer and Revenue Divisional Officer has given a report that her community certificate is a genuine one. However, the 1st respondent issued notice on 28.08.2021 to appear for enquiry on 06.09.2021. The petitioner appeared for enquiry along with relevant documents. However, the 1st respondent without considering her family members community certificate and school records, cancelled her community certificate. Hence, the present writ petition with the aforesaid relief.

3. Learned counsel for the petitioner would state that the petitioner had produced the community certificate of her father's own brother, the petitioner's own brothers community certificates, her father's own brother's children community certificates, her husband's community certificate and her children's community certificates showing that they belong to Kurumans community which is a scheduled tribe community and the copy of the same are also enclosed in the typed set of papers.

4. Further, the learned counsel for the petitioner also relied on the



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judgment reported in 2012(1) SCC 113 (Anand Vs. Committee for Scrutiny and Verification of Tribe claims and others) wherein at paragraph No.22, it has been held as follows:

22..... (i)

*(ii) While applying the affinity test, which focuses on the ethnological connections with the Scheduled Tribe, a cautious approach has to be adopted. A few decades ago, when the tribes were somewhat immune to the cultural development happening around them, the affinity test could serve as a determinative factor. However, with the migrations, modernisation and contact with other communities, these communities tend to develop and adopt new traits which may not essentially match with the traditional characteristics of the tribe. Hence, the affinity test may not be regarded as a litmus test for establishing the link of the applicant with a Scheduled Tribe. Nevertheless, the claim by an applicant that he is a part of a Scheduled Tribe and is entitled to the benefit extended to that tribe, cannot per se be disregarded on the ground that his present traits do not match his tribe's peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial and dead bodies, etc. Thus, the affinity test may be used to corroborate the documentary evidence and should not be the sole criteria to reject a claim."*



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5. It is seen from the records that already the Revenue Divisional Officer, Chengalpattu vide letter dated 04.05.2011 had stated that "Hindu-Kurumans" Scheduled Tribe Community Certificate issued to Selvi E.Maheshwari, D/o Thiru.Elumalai by the Assistant Collector, Chengalpattu is genuine. The Director, Tribal Welfare, Chennai - 5, has also forwarded the Vigilance Cell enquiry report of the Deputy Superintendent of Police, Social Justice and Human Rights Wing, Kancheepuram District, to Government vide letter dated 17.12.2020, where it has been stated that "Hindu Kurumans" Scheduled Tribe Community Certificate issued to the individual is a genuine one.

6. Further, the petitioner has produced the community certificate of her father's own brother, her father's own brother's children community certificate and her own brothers community certificate, her husband's community certificate and her children's community certificates showing that they belong to Kurumans (ST) community. However, without considering the documents produced by the petitioner, the authority had cancelled the community certificate of the petitioner.



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7. We have been repeatedly observing that a community comprises the members of the family and also members of the same group or tribe or caste and that the children derive their community from their parents and members of the family. If they have been given community certificate, their children, are entitled to the said certificate without any further verification. In the present case, the petitioner has produced the community certificate of her father's own brother, her father's own brother's children community certificate, her own brothers community certificate, her husband's community certificate and her children's community certificates showing that they belong to Scheduled Tribe Community of Kurumans. Therefore, the authorities cannot take a different view and reject the petitioner's claim. Further, it is for the authorities to examine their relationship and issue community certificate.

8. Therefore, taking into consideration all the above aspects, we are of the opinion that the impugned order dated 29.09.2021 is liable to be set aside, accordingly, the same is set aside. The 1st respondent is directed to issue a community certificate to the petitioner to the effect that she belongs to Kurumans (ST) Community within a period of two weeks from the date of



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receipt of a copy of this order.

9. The Writ Petition is disposed of with the above directions. No costs.

Consequently connected miscellaneous petition is closed.

Post the matter 'for reporting compliance' on 24.11.2023.

(J.N.B., J.) (N.M., J.)  
07.11.2023

vsi

Index : Yes / No

Internet : Yes / No

**Note:** Issue order copy on 17.11.2023

To

1. The Tamil Nadu State Level Scrutiny Committee-III,  
Adi-Dravidar and Tribal welfare Department,  
Namakkal Kavingar Maligai,  
Secretariat,  
Chennai - 600 009  
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**J. NISHA BANU, J.**  
**and**  
**N.MALA, J.**

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