



W.P.No.7703 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.08.2023

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MRS. JUSTICE N.MALA**

**W.P.No.7703 of 2020
and WMP.No.9591 of 2020**

R.Jagadeesan

..Petitioner

Vs.

1.The Chairman,
Tamil Nadu State Level Scrutiny Committee-II
Adi-Dravidar and Tribal Welfare Department
Namakkal Kavignar Maligai, 3rd floor
Secretariat, Chennai-600 009

2.The Director of Tribal Welfare,
Chepauk, Chennai-600 005

3.The District Collector, Madurai

4.The Revenue Divisional Officer,
Usilampatti, Madurai

5.The Tahsildar, Usilampatti, Madurai



W.P.No.7703 of 2020

6.The General Manager, Union of India,
Southern Railway, Park Town, Chennai-600 003

7.The Senior Divisional Personnel Officer
Madurai Division, Southern Railway
Madurai-625 016.

8.A.S.Mohan Ram
Deputy Conservator of Forest,
Member Secretary (F.A.C)
State Level Scrutiny Committee-II
Adi Dravidar and Tribal welfare Department
Chennai-600 009

..Respondents

Prayer: Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorarified Mandamus to call for the records of the 1st respondent proceedings No.8891/CVIII/2014-11, dated 18.02.2020 and quash the same and consequently declare the communal status of the petitioner as Hindu “Kammara” Schedule Tribe Community in the light of the proceedings No.12859/CVIII/2007 dated 25.09.2013 passed by 1st respondent in respect of the petitioner’s brother R.Baskaran to the effect had confirmed that he belongs to Hindu “Kammara” Community and in the light of the Judgment of the Hon’ble Apex Court reported in 1997 (7) SCC 505.



W.P.No.7703 of 2020

For petitioner : Mr.L.Chandrakumar
for Mr.N.Naganathan

For respondents : Mr.E.Vijayanand, Addl Govt.Pleader for R1 to R5
Mr.P.T.Ramkumar, Standing counsel for R6.

ORDER

[Order of the court was made by J.Nisha Banu, J.]

This writ petition is filed challenging the 1st respondent proceedings dated 18.02.2020, wherein, the State Level Scrutiny Committee recommended the District Collector, Madurai, to take stringent action against the petitioner for obtaining bogus community certificate.

2. It is averred in the writ petition that the petitioner belongs to Hindu “Kammara” Schedule Tribe Community. The petitioner's parents are uneducated. The petitioner completed his school education in his native P.Chettiyapatti village, Usilampatti Taluk, Madurai District. After conducting thorough verification and enquiry by the Revenue Department, the Tahsildar, Usilampatti, Madurai District issued a community certificate bearing No.486/78 dated 07.11.1978 that he belong to



W.P.No.7703 of 2020

“Kammara” Schedule Tribe community. The Tahsildar was the then competent authority to issue community certificates and as such he had issued the certificate to him and also his close relative as “Kammara” Scheduled Tribe Community.

3. The petitioner submitted that he studied 8th standard and got transfer Certificate dated 04.09.1972. He was appointed as Temporary Khalasi in Southern Railway against ST quota and was posted at Trivandrum Division on 15.04.1980 and he reached upto the level Senior Technician on promotion and retired from service on 30.06.2015.

4. It is submitted that on receipt of a complaint from All India Scheduled Castes and Schedule Tribe Railway Employees Association, Madurai Division dated 06.08.2003, the petitioner community certificate was sent for verification after 23 years by petitioner's employer to the District Collector, Madurai and subsequently, to State Level Scrutiny Committee.



5. The 1st respondent-State Level Scrutiny Committee conducted the enquiry through Deputy Superintendent of Police, SC/ST Vigilance Cell, Madurai Region. The Vigilance Cell submitted a report on 21.08.2019 to the 2nd respondent-Director of Tribal Welfare, Chepauk, stating that the petitioner's community certificate is not genuine on the basis of statements made by witnesses, documents and Anthropologist's report.

6. The petitioner submits that during the course of enquiry, he submitted a number of documents to prove his community, but the Vigilance Cell rejected all the documents.

7. The learned counsel for the petitioner would submit that the petitioner has substantiated his community status by filing Document No.D2 / order dated 25.09.2013 passed by the 1st respondent for his own brother R.Baskaran. In respect of R.Baskaran, the State Level Scrutiny Committee had confirmed it as a genuine one. Documents D3 to D11, D13 and D14 are State Level Scrutiny Committee Proceedings which were issued by concerned Taluk Officer, wherein, petitioner's close relative's



W.P.No.7703 of 2020

community certificates have been confirmed by the Committee as genuine, however, the said documents were not taken into consideration by the 1st respondent for scrutiny.

8. The learned counsel for the petitioner would also submit that the proceedings of the respondents do not disclose any valid reason for rejecting the claim of the petitioner's community certificate.

9. It is further contended that in the light of the proceedings No.12859/CVIII/2007 dated 25.09.2013 passed by 1st respondent in respect of petitioner's brother R.Baskaran holding that he belongs to Hindu "Kammara" Community and in the light of the Judgment of the Hon'ble Apex Court reported in *1997 (7) SCC 505 [R.Kandasamy v. Chief Engineer, Port Trust]*, when close relatives of the petitioner were issued community certificates to the effect that they belong to "Kammara" community and such certificates are valid and subsisting as on date, denial of the said benefit to the petitioner is arbitrary and unreasonable.

10. The learned counsel for the petitioner vehemently argued that



the 1st respondent-State Level Scrutiny Committee and the Employer-

Bank failed to consider the judgment of the Hon'ble Supreme Court in ***Kandasamy v. Chief Engineer, Madras Port Trust, (1997) 7 SCC 505***, wherein the Hon'ble Supreme Court held that community certificates issued prior to 11.11.1989 are valid. He submitted that the proceedings of the respondents impugned in this writ petition are in flagrant violation of the decision of the Hon'ble Supreme Court in Kandasamy.

11. On the other hand, the learned Additional Government Pleader appearing for the respondents 1 to 5 submitted that the impugned proceedings were issued as per the decision in [Kumari Madhuri Patil and another v. Additional Commissioner of Tribal Development and others](#), reported in 1994(6) SCC 241, wherein the Hon'ble Supreme Court issued directions to streamline the procedure for issuance of social status certificate. He argued that the State Level Scrutiny Committee is empowered to verify the genuineness of the community certificate issued to the petitioner. The learned Special Government Pleader submitted that the proceedings impugned are issued only as per law and the same need



W.P.No.7703 of 2020

not be interfered with.

WEB COPY

12. Heard both sides and perused the records.

13. It is seen from the records that after 23 years of service of the petitioner, the employer of the petitioner referred the community certificate for verification to the first respondent. The first respondent after scrutiny held that the community certificate issued by the Revenue Divisional Officer, Usilampatti, is not in confirmity with vital documents, conclusions of the Deputy Superintendent of Police, SC/ST Vigilance Cell and the Anthropologist. On going through the Additional typed set of papers, we find that the petitioner's own brother and petitioner's own brother's children who were issued with Hindu “Kammara” Scheduled Tribe community which were confirmed by the State Level Scrutiny Committee as genuine. It is relevant to point out herein that this court had time and again held that when community certificate issued in favour of close relatives and blood relations by a competent authority subsist, the authorities are bound to consider the same, unless the same are set aside



W.P.No.7703 of 2020

by a higher authority. In the case on hand, the first respondent/Committee

itself upheld the communal status of the petitioner's own brother.

Therefore the cancellation of the community certificate by the 1st respondent is unjustified.

14. In the light of the discussions and decisions mentioned supra, we are unable to sustain the conclusion of the State Level Scrutiny Committee. Accordingly, the Writ Petition stands allowed in the following terms:-

(a) the proceedings impugned in this writ petition dated 18.02.2020 is set aside.

(b) In the light of the proceedings dated 25.09.2013 passed by the 1st respondent in respect of petitioner's brother R.Baskaran confirming that he belongs to Hindu “Kammara” community, the petitioner's community certificate issued by the Revenue Divisional Officer dated 07.11.1978 is held to be genuine.

(iii) In the light of direction already given to Respondents 6 and 7 to



W.P.No.7703 of 2020

continue to pay the provisional pension to the petitioner by order dated 20.05.2020, now the Railways are directed to pay the pension amount as per Rules and other retirement benefits, if any due, to the petitioner forthwith.

No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B, J.)

(N.M., J.)

17.08.2023

Index:Yes/No

Neutral citation:Yes/No

nvsri

To

1.The Chairman,

Tamil Nadu State Level Scrutiny Committee-II

Adi-Dravidar and Tribal Welfare Department

Namakkal Kavignar Maligai, 3rd floor

Secretariat, Chennai-600 009

2.The Director of Tribal Welfare,

Chepauk, Chennai-600 005

3.The District Collector, Madurai



W.P.No.7703 of 2020

4.The Revenue Divisional Officer,
Usilampatti, Madurai

5.The Tahsildar, Usilampatti, Madurai

6.The General Manager, Union of India,
Southern Railway, Park Town, Chennai-600 003

7.The Senior Divisional Personnel Officer

Madurai Division, Southern Railway, Madurai-625 016.



WEB COPY



W.P.No.7703 of 2020

J. NISHA BANU, J.
and
N.MALA,J.

nvsri

W.P.No.7703 of 2020

17.08.2023