



W.P.No.25223 of 2022 & W.M.P. Nos24172 & 24173 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2023

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.25223 of 2022

&

W.M.P. Nos.24172 & 24173 of 2022

N. Saileela

...Petitioner

Vs.

1. The Tamil Nadu State Level Scrutiny Committee-III
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavignar Maligai,
Secretariat, Chennai 9.

2. M/s. Oil and Natural Gas Corporation Ltd.,
Rep. by its Executive Directorate,
(Now GM-Head Rgl. Office)
Southern Regional Centre,
No.8, Gandhi Irwin Road,
Chennai 600 008.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus or any other Writ order or direction in the nature of a Writ calling for the records of the first respondent proceeding No.26681/CV-6/2005 dated 25.08.2022, quash the same and direct the respondents forbearing the second respondent from initiating any disciplinary proceedings against the petitioner or terminating,relieving or suspending the petitioner from service in the second respondent corporation on the basis of order passed by the first respondent committee in proceedings No. 26681/CV-6/2005 dated 25.08.2022.

For Petitioner	: Mr. M. Ravi
For R1	: Mr. P. Gurunathan Additional Government Pleader
For R2	: Ms. Pooja Jain for M/s. Giridhar & Sai, ONGC

ORDER

(R.HEMALATHA, J.)

Challenging the proceedings of the the 1st respondent (The Tamil Nadu State Level Scrutiny Committee-III, Adi Dravidar and Tribal Welfare Department, Secretariat, Chennai), in No.26681/CV-6/2005



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dated 25.08.2022, the petitioner has filed the present Writ Petition and also forbearing the 2nd respondent (Oil and Natural Gas Corporation Ltd.,) from initiating any disciplinary proceedings against her.

2. Brief averments of the petitioner are as follows:

- i. The petitioner Tmt. N. Saileela was appointed as Stenographer Grade-III in the 2nd respondent corporation (M/s. Oil and Natural Gas Corporation Ltd.,) on 18.11.1991 and was posted at Chennai. She was selected under Scheduled Tribe quota and she submitted her community certificate No.522711 bearing Ref. No.D.Dis B5/6609/90 dated 12.11.1990 issued by Tahsildar, Mylapore-Triplicane Taluk, Madras.
- ii. One Arumugam, who was working as a Manager in the same Oil and Natural Gas Corporation Ltd., gave a false complaint against the petitioner alleging that she does not belong to Scheduled Tribe Community and on the basis of the said complaint, the 2nd



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respondent constituted a committee in which the said Arumugam was also a member.

iii. The Committee referred the matter to the Government for verification of the community certificate submitted by the petitioner, pursuant to which, the District level Vigilance Committee, Chennai, conducted an enquiry.

iv. Though the petitioner contended that her father belonged to Hindu "Kondakapus" Community, which is one of the communities listed as Scheduled Tribes under the Constitution (Schedule Tribes) 1950 and its amendments vide SC/ST list modification order, 1956 and amendment 1975, and also produced the community certificate issued to her father Nakula Appa Rao, by the Revenue Divisional Officer, Sripuram Village, Gantyada Mandal of Vizianagaram District, Andhra Pradesh, the District Level Vigilance Committee, Chennai, vide its order dated 03.01.2000 concluded that she does not belong to Scheduled Tribe Community.



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v. Aggrieved over the same, she filed an appeal before the Tamil Nadu State Level Scrutiny Committee, Adi Dravidar and Tribal Welfare Department, Chennai. Since no order of stay was granted by the State Level Scrutiny Committee, she filed a Writ Petition before this Court, which directed the State Level Scrutiny Committee to dispose of the appeal of the petitioner within 60 days. It also granted an interim order of stay.

vi. Subsequently, the Tamil Nadu State Scrutiny Committee, Adi Dravida and Tribal Welfare Department, Chennai, conducted enquiry on various dates and confirmed the order of the District Level Vigilance Committee, Chennai, in Proceedings No.665/ADW.2/2000, vide its order dated 20.09.2001.

vii. Thereafter, the petitioner preferred a Writ Petition in W.P.No.19025/2001 before this Court seeking Writ of Mandamus to quash the order of the Tamil Nadu State Level Scrutiny Committee and for forbearing the 2nd respondent from initiating any disciplinary proceedings against her. However, during the pendency of the said Writ Petition, the petitioner was terminated



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viii. Thereafter, the said Writ Petition was allowed on the ground that since the District Level Vigilance Committee, Chennai, consisted of only two members, they do not have any authority to decide on the Community certificate presented by the petitioner.

ix. SLP No.17084/2005 filed by the 2nd respondent, challenging the abovesaid order was dismissed by the Hon'ble Supreme Court vide its orders dated 26.02.2016.

x. The petitioner was reinstated in service by the 2nd respondent with effect from 09.10.2001 and she was paid 50% backwages for the period 09.10.2001 to 23.03.2016 as per the directions of the Hon'ble Apex Court.

xi. Thereafter, the Principal Secretary, Adi Dravidar and Tribal Welfare Department, Chennai, vide its letter dated 20.10.2016, directed the Deputy Superintendent of Police, SC/ST Vigilance Cell, Chennai, to verify the genuineness of the Community Certificate, dated 12.11.1990, issued by the Tahsildar, Mylapore-



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xii.The District Level Vigilance Committee, Chennai, sent a detailed report to the State Level Scrutiny Committee stating that petitioner does not belong to Hindu "Kondakapus" Scheduled Tribe Community.

xiii.The Anthropologist who conducted enquiry also held that the petitioner does not belong to Hindu "Kondakapus" Scheduled Tribe Community.

xiv.The petitioner submitted a representation dated 19.03.2022 to the State Level Scrutiny Committee, Chennai.

xv.On 25.08.2022, the Tamil Nadu State Level Scrutiny Committee-III, Chennai (1st respondent), vide proceedings No.26681/CV-6/2005, concluded that the petitioner does not belong to Hindu Kondakapus Scheduled Tribe Community.

3. Aggrieved over the same, the present Writ Petition is filed.



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4. The 1st respondent filed a detailed counter in which it has been stated thus:

- i. As per the directions of the Hon'ble Supreme Court in *Kumari Madhuri Patil and another vs. Additional Commissioner, Tribal Development and others* reported in (1994) 6 SCC 241, the State Government referred the case to the Assistant Commissioner of Police, SC/ST Vigilance cell, Chennai Region, in order to verify the social status claimed by the petitioner.
- ii. Accordingly, the Assistant Commissioner of Police, Scheduled Caste / Scheduled Tribe Vigilance Cell, Chennai, had conducted an enquiry and had held that the petitioner does not belong to Hindu "Kondakapus" Scheduled Tribe Community.
- iii. The Anthropologist also made a field enquiry and studied the history, origin of "Kondakapus" and their food habits, clan details, marriage, birth and other ceremonies. The Anthropologist in her report had clearly held that the present petitioner does not belong to Hindu "Kondakapus" Scheduled Tribe Community and



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- iv. The State Level Scrutiny Committee also, after conducting enquiry on 20.04.2022, 15.06.2022 and 11.08.2022 and taking into account the various documents presented by the petitioner, concluded that the petitioner does not belong to Hindu "Kondakapus" Scheduled Tribe Community.
- v. In the instant case, there was no prior verification of the community certificate submitted by the petitioner and it needs to be verified atleast at the time of retirement.
- vi. The orders passed by both the District Level Vigilance Committee, Chennai and State Level Scrutiny committee are in proper perspective and no interference is called for and therefore, the present Writ Petition is liable to be dismissed.

5. Heard Mr. M. Ravi, learned counsel appearing for the petitioner, Mr. P. Gurunathan, learned Additional Government Pleader appearing for the 1st respondent and Ms. Pooja Jain, learned counsel appearing for the 2nd respondent.



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6. Mr. M. Ravi, learned counsel appearing for the petitioner contended that the orders passed by the 1st respondent is a non speaking order as it had failed to consider the petitioner's community certificate issued by the Tahsildar, Mylapore-Triplicane Taluk, Madras, and it had merely confirmed the orders of the District Level Vigilance Committee, Chennai. He would further contend that the District Level Vigilance Committee, Chennai had also come to a conclusion that the petitioner does not belong to Hindu "Kondakapus" Scheduled Tribe Community in a casual manner without going into the factual aspects of the case projected by the petitioner. His specific contention is that the petitioner's father was originally a resident of Sripuram Village, Gantyada Mandal of Vizianagaram District, Andhra Pradesh and the Revenue Divisional Officer of Sripuram Vaillage had issued a certificate to the petitioner's father stating that he belongs to Hindu "Kondakapus" Scheduled Tribe Community and that the petitioner and her father had migrated to Chennai 35 years back and therefore the petitioner was not in a position to explain the practice of her community to the anthropologist. According to him all these aspects were not at all taken into



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consideration by the State Level Scrutiny Committee and therefore the same is liable to be dismissed.

7. Per contra Mr. P. Gurunathan, learned Additional Government Pleader appearing for the 1st respondent contended that the present petitioner obtained a certificate from the Tahsildar, Mylapore-Triplicane Taluk, Madras, in Ref. No.D.Dis B5/6609/90 dated 12.11.1990, and her father obtained a community certificate from the Revenue Divisional Officer, Sripuram Village, Gantyada Mandal of Vizianagaram District, Andhra Pradesh, in S.R. 56/1998 dated 31.03.1998. He would further contend that as per the Government Order, Scheduled Tribe Community Certificate cannot be issued by a Tahsildar subsequent to 11.11.1989 and that the certificate submitted by the petitioner was also found to be bogus. He would further contend that the District Level Vigilance Committee, Chennai, and the State Level Scrutiny Committee after conducting elaborate enquiry had rightly concluded that the petitioner does not belong to Hindu "Kondakapus" Scheduled Tribe Community and that the petitioner did not produce any



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acceptable records to show that she belongs to Hindu "Kondakapus" Scheduled Tribe Community. Moreover, even in her school records her community is mentioned as "Hindu, Indian" and "Hindu-Kapu" Community. Nowhere it is stated that she belongs to Hindu "Kondakapus" Scheduled Tribe Community and the Tahsildar who issued the certificate on 12.11.1990 did not have any authority to issue Scheduled Tribe Community certificate to the petitioner. It is his contention that the burden of proving her claim that she belongs to Scheduled Tribe Community, is upon the petitioner and that the Scrutiny Committee merely performs the role of verification of the claim and therefore can only scrutinise the documents produced by the petitioner. It is also his submission that as per the decision of the Hon'ble Supreme Court in *Kumari Madhuri Patil and another vs. Additional Commissioner, Tribal Development and others* (cited supra) it is mandatory to verify the community certificate of a person claiming reservation based on his/her community status and that no finality is attached to the community certificates and if benefits have been wrongly availed, the State resources cannot be strained to release terminal benefits



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to an employee who has wrongly claimed reservation. He therefore, prayed for dismissal of the present Writ Petition.

8. The learned counsel appearing for the 2nd respondent contended that based on the report of the State Level Scrutiny Committee-III, the petitioner's appointment was cancelled vide orders dated 06.09.2022 (ref No.CHN/ESTT/DIS/132085/2022) and the same was served on the present petitioner. She therefore, prayed for the dismissal of the present Writ Petition.

9. It is seen from the records that the Deputy Superintendent of Police, Scheduled Caste /Scheduled Tribe Vigilance Cell, Chennai, had conducted an enquiry, in which the following documents presented by the petitioner were scrutinised.

- Copy of Secondary School Leaving Certificate Sl. No.019947 dated 02.06.1978 issued by the Headmaster, Kesari High School, Mylapore, Madras-4 to N. Saileela, wherein her nationality and religion was mentioned as Indian Hindu.
- Copy of Transfer Certificate Serial No.1360 (Admn. No.6316)



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dated 20.06.1978 issued by the Headmistress, Kesari High School, Mylapore, Madras-4 to N. Saileela, wherein her nationality and religion were mentioned as Indian Hindu (completed X standard during 1977-78).

- Copy of Transfer Certificate S. No.6 (Admn. No.76) issued by the Headmistress, Kesari Higher Secondary School, Mylapore, Madras-4 to N. Saileela, wherein her nationality and religion was mentioned as Indian Hindu (completed Higher Secondary course during 1978-80).
- Copy of School admission and withdrawals register attested by the Headmistress, Kesari Higher Secondary Secondary School, Mylapore, Madras-4 , in which the community of N. Saileela, is mentioned as Indian Hindu Kapu.
- Copy of the school Admission and withdrawals register attested by the Principal, Stella Matriculation, Kamaraj Salai, Chennai 83, in which the individual's daughter P. Lekhita's community is mentioned as BC.



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- Copy of Transfer Certificate S. No.2781 (Admn No.5116) issued by the Principal, Jaigopal Garodia Hindu Vidyalaya Matriculation Higher Secondary School, Chennai 33 to P. Lekhitha, D/o. P.Ramakrishnan, wherein her nationality, religion and community were mentioned as Indian, Hindu Gavara Naidu.
- The Tahsildar, Mylapore Taluk, Chennai in his letter dated 28.11.2020 has stated that the original issuance records of Hindu Kondakapus Scheduled Tribe Community certificate No.522711 vide D.Dis.B5/6609/90 dated 12.11.1990 issued to Tmt.N.Saileela, D/o. Thiru Ramakrishnan was not found in their office record room.

The Deputy Superintendent of Police also examined all the witnesses adduced by the petitioner and vide his report dated 29.11.2021 in Na.Ka No.93/DSP/SJ&HR/SC-ST/VC/Chennai/2017 had held that the petitioner does not belong to Hindu "Kondakapus" Scheduled Tribe Community on the following grounds.



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- i. Though the petitioner had contended that her father belonged to Sripuram Village, Gantyada Mandal of Vizianagaram District, Andhra Pradesh, and that the Revenue Divisional Officer had issued a community certificate to her father on 31.03.1998 in SR.56/1998, the same cannot be construed as genuine since the petitioner had obtained certificate from the Tahsildar, Mylapore-Triplicane Taluk, even prior to that i.e., on 12.11.1990.
- ii. The petitioner was married to one Ramakrishna, who belongs to Gavara Naidu community and she had obtained community certificate to her children stating that they belong to Hindu Gavara Naidu BC community.
- iii. The Admission Register of Kesari Higher Secondary School, Chennai, clearly shows that the petitioner belongs to Indian Hindu "Kapu" (B.C.) community and not "Kondakapus" community. The transfer certificate of the school states that the petitioner belongs to "Indian Hindu".
- iv. The Anthropologist also had given a report stating that the petitioner does not belong to Hindu "Kondakapus" Scheduled



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v. Thereafter, the Director of Tribal Welfare, Chennai, on receipt of Vigilance Cell report from Deputy Superintendent of Police, SC/ST Vigilance Cell, Chennai, issued a show cause notice to the petitioner.

10. Thereafter, on an appeal, the State Level Scrutiny Committee-III issued summons to the petitioner and conducted enquiry on 20.04.2022, 15.06.2022 and 11.08.2022. Taking into consideration the oral and documentary evidence adduced on the side of the petitioner, The State Level Scrutiny Committee-III, vide its order dated 25.08.2022 held that the petitioner does not belong to Hindu Kondakapus Scheduled Tribe Community. In paragraph Nos. 17 and 18 of the order, the following observations were made by the State Level Scrutiny Committee-III, Chennai.

"17. The State Level Scrutiny Committee-III has therefore examined the matter in toto and verified the records/documents



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available with the Committee in detail and observed that the individual has followed the dilatory tactics one or the other reasons. Hence in order to avoid further delay in verification process as well as to complete the verification of the individual's community certificate expeditiously, the State Level Scrutiny Committee, has decided to finalise the genuinity of the said "Kondakapus" Scheduled Tribe Community Certificate based on the documents available with the Committee, in accordance with Law. Therefore, the State Level Scrutiny Committee has scrutinized the documentary evidences submitted by the Deputy Superintendent of Police, Scheduled Castes/Scheduled Tribes Vigilance Cell, Chennai region.

18. Based on the scrutinization of the above available documentary evidences, the State level Scrutiny Committee-III has concluded that Tmt. N. Saileela D/o. Thiru N. Appa Rao does not belong to "Kondakapus" Scheduled Tribe Community. The Hindu "Kondakapus" Scheduled Tribe Community Certificate No.522711 issued by Tahsildar, Mylapore, Triplicane Taluk to Tmt. N. Saileela D/o. Thiru N. Appa Rao is a bogus one and was obtained fraudulently with a malafide intention to derive the constitutional benefits meant for a genuine Scheduled Tribe. Therefore, the State Level Scrutiny Committee hereby confirms



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that the "Kondakapus" Scheduled Tribe Community Certificate obtained by the individual, Tmt. N. Saileela D/o. Thiru. N. Appa Rao is "Not Genuine" and consequently cancels the said Scheduled Tribe Community Certificate. Accordingly, the State Level Scrutiny Committee-III hereby directs the employer to take appropriate action against the individual as per law. The District Collector, Chennai, is requested to confiscate the said Scheduled Tribe Community certificate.

It is thus clear that both District Level Vigilance Committee, Chennai, and the State Level Scrutiny Committee-III, Adi Dravidar and Tribal Welfare Department, Chennai, had held that the petitioner does not belong to Hindu "Kondakapus" Scheduled Tribe Community, only after conducting due enquiry. There is nothing to show that there is a violation of principles of natural justice in the instant case. The petitioner was given an opportunity of being heard and none of her documents suggested that she belongs to Hindu "Kondakapus" Scheduled Tribe Community. The Anthropologist also concluded that she does not belong to Hindu "Kondakapus" Scheduled Tribe Community, as the petitioner was not able to state her community



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practice and customs.

11. The contention of the learned counsel for the petitioner that since the petitioner migrated from Andhra Pradesh 35 years back and settled down in Chennai, she was not aware of her community practice cannot be accepted for the simple reason that it is for the petitioner to prove that she belongs to Scheduled Tribe Community and she must produce the requisite documents in support of her claim. Moreover, the Tahsildar, Mylapore-Triplicane Taluk, Madras, did not have any authority to issue a community certificate that the petitioner belongs to Scheduled Tribe Community on 12.11.1990 since as per the Government Order of the Tamil Nadu State, only the Revenue Divisional Officer can issue Scheduled Tribe Community certificate with effect from 11.11.1989.

12. In such circumstances, the District Level Vigilance Committee, Chennai, and the State Level Scrutiny Committee-III, Adi Dravidar and Tribal Welfare Department, Chennai, had rightly held that the certificate issued by the Tahsildar, Mylapore, Triplicane Taluk, is



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without any authority. It was also found to be bogus.

13. In view of the above discussions, we do not find any merit in the present Writ Petition and accordingly the Writ Petition is dismissed. No costs. Consequently connected miscellaneous petitions are closed.

(V.M.V.,J.) (R.H.,J.)
10.02.2023

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

1. The Tamil Nadu State Level Scrutiny Committee-III
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