



W.P.No.12831 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 22.06.2023

DELIVERED ON: 25.07.2023

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE TMT.JUSTICE P.DHANABAL

W.P.No.12831 of 2022

and WMP.Nos.12297, 12298 & 12300 of 2022

Tmt.V.Geetharani

..

Petitioner

Vs.

- 1.Tamilnadu State Election Commission,
Rep. by the State Chief Election Commissioner,
No.208/2, Jawaharlal Nehru Road,
Opp to CMBT, Arumbakkam,
Chennai-600 106.
- 2.District Collector and Chairman of
District Level Vigilance Committee,
O/o. The District Collector,
Cuddalore District.
- 3.Member-District Level Vigilance Committee,
Department of Anthropology,
University of Madras,
Chennai-05.



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4.Member - District Level Vigilance Committee,
District Adi Dravidar and Tribal Welfare Officer,
Cuddalore District.

5.The Returning Officer / The Block Development Officer,
O/o. The Block Development Officer,
Veppur Taluk, Cuddalore District.

6.The Tahsildar,
O/o. The Tahsildar,
Veppur Taluk, Cuddalore District.

7.M.Maheshwari .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records comprised in the impugned order bearing Proc.No.W5/35559/2020 dated 06.12.2021, confirming the 7th respondent belongs to Hindu Kuravan Community bearing No.TN.5201912036965 dated 05.12.2019 issued by the 6th respondent as genuine passed by the respondents 2 to 4 and quash the same and consequently, direct the 6th respondent to rectify the entry in the Community Certificate bearing TN.5201912036965 dated 05.12.2019 as Hindu Kattu Naicken issued by the 6th respondent

For Petitioner : Mr.Aravind Subramaniam, Senior Counsel
for M/s.A.Sathasivam

For Respondents : Mr.Sivashanmugam, Standing Counsel for R1
Mr.E.Vijay Anand,
Additional Government Pleader for R2 to R6
Mr.V.Prakash,
Senior Counsel for R7



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ORDER

D.KRISHNAKUMAR, J.

Challenge in the writ petition is to the order of the respondents 2 to 4 dated 06.12.2021, confirming the Community Certificate issued by the sixth respondent dated 05.12.2019 as genuine, declaring that the seventh respondents belongs to Hindu Kuruvan Community and for a consequential direction to the sixth respondent to rectify the entry made in the Community Certificate bearing TN.520912036965 dated 05.12.2019 as Hindu Kattu Naicken, issued by the sixth respondent.

2. Facts necessary for the disposal of the writ petition, briefly narrated, are as follows:

2.1. The petitioner, who belongs to Scheduled Caste Community, is one of the contestants in the election for the post of Village Panchayat President in her village, as per the Notification dated 05.12.2019, more particularly for "Scheduled Caste Women". On 13.12.2019, the petitioner filed her nomination along with 9 other persons for the post of Village Panchayat President and out of 9 persons, 4 persons withdrew their nomination. The writ petitioner and the seventh respondent are among



the 5 persons who contested in the elections.

2.2. According to the petitioner, the seventh respondent belongs to Backward Community, more particularly she belongs to Nayakkar community and she married one R.Thirugnanam, who belongs to Goundar community and the said communities comes under the category of Backward community. According to the petitioner, the post of Village Panchayat President in her village is reserved for Scheduled Caste Women, but the seventh respondent submitted her nomination by suppressing her communal status for the purpose of manipulating the Scheduled Caste Community, who are living in a very poor conditions in their locality.

2.3. According to the petitioner, they came to know that for the purpose of getting Government benefits given to Scheduled Castes and Scheduled Tribes, the father of the seventh respondent one Murugesan Nayakkar gave false details in the school at the time of admitting the seventh respondent and instead of "Nayakar", wrongly gave the caste name as "Kattu Nayakkan", which comes under the category of



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Scheduled Tribes and not Scheduled Caste. Further, the said Murugesa Nayakar gave another caste name i.e., Hindu Kuravan to his second daughter, namely Anusuya, which belongs to Scheduled Caste Community.

2.4. According to the petitioner, after the election notification was announced on 05.12.2019, the above said Murugesa Nayakar, by using the Scheduled Caste Community Certificate of his second daughter, namely Anusuya, approached the revenue authorities and changed the caste of the seventh respondent from "Kattu Nayakar" to "Kuruvan" and obtained Scheduled Caste Community Certificate from the revenue authorities. The petitioner alleges that the revenue authorities, without conducting proper enquiry, issued Scheduled Caste Community Certificate, vide Certificate No.TN 5201912036965 dated 05.12.2019 i.e., after the announcement of Panchayat election.

2.5. The petitioner, in this regard, made a complaint to the second respondent herein, but the second respondent did not take any action against the sixth respondent and instead rejected her complaint.



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According to the petitioner, the seventh respondent originally belonged to Backward Community and only to suppress the weaker section, more particularly the Scheduled Caste community, she committed the above said forgery. The seventh respondent is also declared as a winner in the elections. According to the petitioner, though a representation dated 12.12.2019 was sent to the respondents 2 and 5 as against the seventh respondent for taking action for the forgery of community certificate and contesting the elections, no action was taken.

2.6. On 20.08.2020, the petitioner made a representation requesting the second respondent to cancel the community certificate issued to the seventh respondent. In pursuant to the representation, the second respondent constituted a District Level Vigilance Committee and issued notice to the parties concerned and subsequently, passed the impugned order dated 06.12.2021, confirming that the Hindu Kuravan Community Certificate dated 05.12.2019 issued by the sixth respondent is genuine. Aggrieved by the same, the petitioner has filed the instant writ petition.



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3. The second respondent / District Collector and Chairman of District Level Vigilance Committee ("in short DLVC"), Cuddalore District has filed a counter affidavit stating that based on the order passed by this Court in W.P.No.2041 of 2020 dated 31.01.2020, the second respondent has instructed the Tahsildar, Veppur / sixth respondent to sent a report in this regard and the Tahsildar, Veppur has sent a detailed report on 08.02.2021. DLVC had instructed the seventh respondent to appear in person before the Committee on 20.09.2021 to substantiate her claim as Hindu Kuravan, pursuant thereto Tmt.M.Maheswari appeared before the DLVC on 20.09.2021 and submitted 17 documents in support of her claim. The members of DLVC conducted enquiry on 29.11.2021 and during enquiry, the Villagers of Sadaiyapuram gave their written statements stating that Tmt.Maheswari belongs to Hindu Kuravan community and Sadaiyapuram is the birth place of Tmt.Maheswari. After due consideration of the records, written statements, enquiry reports, Anthropologist report, the Members of DLVC examined the unique customs, cultural aspects and traditional occupation of the seventh respondent / Tmt.M.Maheswari and recorded the same and approved that the anthropological and cultural aspect of Tmt.M.Maheswari were in



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accordance with that of Hindu Kuravan and categorically stated that the individual belongs to Hindu Kuravan community. It is further submitted that DLVC, after carefully examining the available records and the documents submitted in support of the individual claims, the enquiry reports, the Genealogical Chart given by the revenue officials and the opinion given by the Anthropologist, decided that Tmt.M.Maheswari/seventh respondent belong to Hindu Kuravan Community and accordingly, DLVC confirmed that the Hindu Kuravan Community Certificate No.TN 5201912036395 dated 05.12.2019 issued by the sixth respondent is genuine, vide proceedings dated 06.12.2021.

4. The seventh respondent / contesting private respondent has filed a counter affidavit stating that the writ petitioner earlier had filed W.P.No.2041 of 2020 and the same was dismissed by a detailed order and on the basis of the said writ petition, the petitioner again gave a complaint to the authority concerned viz., the District Vigilance Committee / 2nd respondent to verify the genuineness of the caste certificate. The DLVC has gone into detail and conducted elaborate



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enquiry regarding the caste of the 7th respondent and the genuineness of the certificate and concluded that the 7th respondent belong to Kuruvan Community and the caste certificate issued to her was genuine and valid. It is further stated by the seventh respondent that under the guise of questioning the caste certificate, the writ petitioner has challenged the election to the Panchayat President and it is a settled proposition of law that when a caste certificate is issued by following the mandatory procedures laid down by law and the same is affirmed as genuine and correct by a Vigilance Committee, it cannot be questioned or challenged by any person, much less the writ petitioner.

5. The writ petitioner has filed a rejoinder affidavit reiterating her earlier stand and further stated that the 7th respondent had admitted that while studying in Government Higher Secondary School, Veppur, she could not obtain Community Certificate in the name of Hindu Kuravan from the Tahsildar and also states that after obtaining the Community Certificate of Hindu Kuravan, the 7th respondent won the Panchayat Election conducted in the year 2019 and the 7th respondent's father



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Murugesan also admitted that he belongs to Hindu Kattu Naicken, but he could not obtain Community Certificate in the name of Hindu Kattu Naicken, so he obtained the Caste Certificate in the name of Hindu Kuruvan from the Tahsildar and also states that after obtaining the Caste Certificate of Hindu Kuravan, his daughter Maheswari / 7th respondent won the Panchayat Election conducted in the year 2019 and however, this Transfer Certificate has not been challenged in any proceedings.

6. Mr.Aravind Subramaniam, learned Senior Counsel for the petitioner contended that the impugned order has been passed without any application of mind, as the respondents 2 to 4 have failed to note that the blood relatives of the 7th respondent are issued with Backward Class and Most Backward Class in their School Transfer Certificates as Kavara, Kuravar and Naicker and however, the respondents 2 to 4 has confirmed the 7th respondent's community certificate dated 05.12.2019 of Hindu Kuravan, issued by the 6th respondent is genuine and on that ground, the impugned order is liable to be set aside.

7. Mr.V.Prakash, learned Senior Counsel for the seventh



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respondent submitted that DLVC, who is the competent authority, has gone into detail and conducted elaborate enquiry on the 7th respondent's communal status and concluded that she belong to Hindu Kuravan, which is a Scheduled Caste Community and it cannot be faulted with. It is further contended that the writ petitioner under the guise of questioning the caste, is making a challenge to the election of the Panchayat President and therefore, prays for dismissal of the writ petition.

8. Heard Mr.E.Vijay Anand, learned counsel for the respondents 2 to 6.

9. This Court has considered the rival submissions and also perused the materials on record including the original records.

10. The main issue revolve around the genuineness of the Community Certificate issued to the seventh respondent Tmt.M.Maheswari by the sixth respondent /Tahsildar, declaring her community as "Kattu Nayakkan" community, which is a "Scheduled Caste" Community and confirmed by the respondents 2 to 4 / District



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Level Vigilance Committee, vide order dated 06.12.2021.

11. According to the petitioner, the seventh respondent belongs to Backward Community and more particularly, she belongs to "Nayakkar Community" and further, she married one R.Thirugnanam, who belongs to Goundar Community, which is also a backward community. The petitioner alleges that the seventh respondent, in order to contest in the elections, had manipulated and obtained forged Community Certificate, that too after the issuance of election notification on 05.12.2019. According to the petitioner, the father of the seventh respondent, namely Murugesan Nayakkar had given false details at the time of admitting the seventh respondent in the school, by specifying the caste name as "Kaatu Nayakkan" instead of "Nayakkar" and whereas "Kattu Nayakkan" comes under Scheduled Tribes Community and not Scheduled Caste. The petitioner also alleges that mother of the seventh respondent belongs to Nayakkar Community and the father of the seventh respondent has obtained community certificate for his second daughter, namely Anusuya as "Hindu Kuravan" which belongs to Scheduled Caste Community and the sixth respondent / Tahsildar, Veppur Taluk has failed to consider the



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above facts and issued a false community certificate dated 05.12.2019, declaring that the seventh respondent belongs to "Kuravan" community", which is a "Scheduled Caste Community" and the DLVC, without conducting detailed enquiry, has confirmed the order of the sixth respondent and both the orders are totally unsustainable.

12. It is not in dispute that the seventh respondent is the Village Panchayat President of Veppur Taluk, Cuddalore District, after becoming successful in the local body elections.

13. The fact remains that the petitioner had earlier approached this Court by filing W.P.No.2041 of 2020 challenging the communal status of the seventh respondent herein and also prayed for a direction prohibiting her to act as Village Panchayat President, Veppur Village, Nallur Village Panchayat Union, Cuddalore. The said writ petition was disposed of vide order dated 31.01.2020 and the relevant portion of the order reads as under:

3. It is now settled position of law after the formulation of the scheme by the Hon'ble Supreme Court of



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India in Kumari Madhuri Patil vs. Additional Commissioner, Tribal Welfare (AIR 1995 SC 94) that any one claiming status of Scheduled Caste or Scheduled Tribe for availing benefits of reservation of posts conferred by the Constitution has to necessarily hold a certificate to that effect issued by the concerned authority and its verification would also have to be made in the manner prescribed thereunder and such determination would be conclusive. In the State of Tamil Nadu, the verification of Scheduled Caste Certificate would have to be made by the concerned District Level Vigilance Committee in terms of G.O. (2D) No. 108 Adi Dravidar and Tribal Welfare Department dated 12.09.2007, which has been issued pursuant to the aforesaid binding ruling of the Hon'ble Supreme Court of India, which holds the field.

4. It is not in dispute that the Fourth Respondent has produced the Community Certificate No. TN ? 5201912036965 dated 05.12.2019 issued by the Tahsildar, Veppur Taluk, Cuddalore District in proof of her claim that she belongs to Kuravan Community, which has been recognized as a Scheduled Caste and the Petitioner herself has produced a copy of the same in this proceeding though it is alleged by her that it has been forged and cannot be relied upon. As such, it is borne out from the record that the Fourth Respondent possesses the requisite Schedule Caste Community Certificate for holding the post of President of Veppur Panchayat for whom the said post has been reserved.

5. In the aforesaid circumstances, if the Petitioner wants to impeach the claim of the Fourth Respondent that she belongs to Scheduled Caste, it is for the Petitioner to make necessary application before the District Level Vigilance Committee for verification of the Schedule Caste Community Certificate of the Fourth Respondent and the



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entitlement of the Fourth Respondent to continue in the post of President of Veppur Panchayat, Cuddalore District would obviously be dependent upon its outcome. However, till the Scheduled Caste Community Certificate of the Fourth Respondent is not cancelled by the competent authority, the question of declaring the candidate who obtained the next higher number of votes as elected or conducting fresh election for that post, does not arise. This view is fortified by the rulings of the Hon'ble Supreme Court of India in the decisions in Kurapati Maria Das vs. Dr. Ambedkar Seva Samajan [(2009) 7 SCC 387], Ayaubkhan Noorkhan Pathan vs. State of Maharashtra [(2013) 4 SCC 465], Bharati Reddy vs. State of Karnataka [(2018) 6 SCC 162] and District Collector, Satara vs. Mangesh Nivrutti Kashid [(2019) 10 SCC 166] where the aforesaid course of action to be followed in such matters has been reiterated.

6. In view of the aforesaid legal position, the Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to the Petitioner work out her remedy for necessary relief before the proper forum in the manner recognized by law. He has also made an endorsement to that effect, which is recorded."

14. In pursuant to the liberty granted by this Court in the aforesaid order, the petitioner made a complaint dated 20.08.2020 to the District Collector cum Chairman, District Vigilance Committee, Cuddalore District to verify the authenticity of the community certificate issued in favour of the seventh respondent. DLVC has instructed the Revenue



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Tahsildar, Veppur to submit a detailed report as to the issuance of community certificate to the seventh respondent. Accordingly, the Tahsildar, Veppur has sent a detailed Enquiry Report dated 08.02.2021, which reads as under:

"1(ii) In the Transfer Certificate No.177/03 dated 02.08.2011, the community of Tmt.Mageswari, is described as Hindu, Hindu Kattunayakkan. The above Transfer Certificate was altered by the Headmaster, Veppur Higher Secondary School as Hindu Kuravan with the initials of the Headmaster. The sister of Mageswari - Tmt. Anusuya, had got a certificate No.5801930 dated 07.03.2009 describing her community as Hindu Kuravan (SC) which was issued by Virudhachalam Tahsildar. It is learnt that the alterations in the Transfer Certificate was made based on the certificate issued by the Tahsildar on 07.03.2009. The certificates issued by the Tahsildar on 29.09.2016 and the altered Transfer Certificate issued by the Headmaster are enclosed herewith.

2(i) Thiru Vignesh, brother of Tmt.Mageswari, son of Murugesan had got a certificate from Vridhachalam Tahsildar, vide Certificate No.6538756 dated 08.10.2010, his community is described as Hindu Kuravan (S.C.). The Transfer Certificate issued to Thiru Vignesh, S/o, Murugesan T.M.R.No.05739739. Admission No.10458/2012 dated 22.07.2014, his community is described as Hindu Kuravan (S.C.). In the College Transfer Certificate No.7406 dated 02.05.2018, his community is given as Hindu Kuravan.

2(ii) In the Certificate issued by Vridhachalam Tahsildar to Tmt.Nusuya, sister of Tmt.Mageswari, her community is declared as Hindu Kuravan (SC). In the Transfer Certificate No.332/2009 dated 05.06.2009, her



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community is described as Hindu Kuravan (S.C.). The same community is given in the College Transfer Certificate No.079 dated 27.11.2018.

2(iii) In the Certificate issued to Thiru Thirugnanam, husband of Mageswari, his community is given as Hindu Kurumban, vide Certificate No.139/2000 dated 07.06.2000. Community Certificate No.0989748 dated 5.8.1999, issued by Vridhachalam by Deputy Tahsildar describes his community as Hindu Kurumban.

....

The mother of Tmt.Mageswari is a native of Veppur North Street, which is a residential place meant for backward class people. The enquiry reveals that the residents of this place are in the habit of burying the dead bodies of their relations in the crematorium meant for backward class people. The village people stated that some fifty years ago, the ancestors of Tmt.Mageswari lived in North street, Veppur Village and afterwards lived in N.Naraiyoor Mathura Sadaiyapuram Village and Mageswari still owns some lands at the outskirts of Naraiyoor village and they are engaged in the professions of making baskets out of bamboo and allied crafts and also carrying palanquins during marriage processions and they are called Nayakkar in the common usage.

The enquiry also reveals that the ancestors of Tmt.Maheswari belong to Madurai District and her relatives are living in Madurai. Even though they had obtained certificates describing them as Hindu Kuravan (SC), they consider that to call them as Kuravan is degrading and therefore, they state that belong to Nayakkar Community."

15. A perusal of the impugned order dated 06.12.2001 passed by

DLVC, Cuddalore District / respondents 2 to 4 would disclose that the



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DLVC has considered the aforesaid report of the Revenue Tahsildar, Veppur dated 08.02.2021 and also instructed the seventh respondent to appear before the Committee on 20.09.2021 to substantiate her claim as Hindu Kuravan, based on which the seventh respondent appeared before the DLVC and submitted as much as 17 documents to substantiate her claim. DLVC consists of Member-Anthropologist, Member Secretary - District Adi Dravidar and Tribal Welfare Office and they conducted an open enquiry in the field along with Revenue Officials in Veppur Village, wherein the people of Sadaiyapuram gave statement on 29.11.2021 stating that Tmt.Maheswari, W/o. Thirugnanam, belongs to Hindu Kuravan Community and Sadaiyapuram is the birth place of Tmt.Maheswari. Before the DLVC, the petitioner also appeared and gave her statement along with documents.

16. The Anthropologist, Member of the Committee had examined the unique customs, cultural aspects and traditional occupation of the seventh respondent and recorded the same and approved the fact that the anthropological and cultural aspect of the seventh respondent were in accordance with that of Hindu Kuravan and categorically held that she



belongs to Hindu Kuravan community.

17. Thus, DLVC, after carefully examining the available records, the deposition given by the seven respondent along with the documents submitted in support of her claim, the petitioner's complaint, the revenue authorities such as Revenue Tahsildar, Veppur and Sub Collector, Vridhachalam, the discreet and open enquiries conducted by the Committee, the Genealogical chart produced by the Revenue Officials and the opinion given by the Anthropologist, had decided that Tmt.M.Maheswari / seven respondent, w/o. Thirugnanam, belong to Hindu Kuravan community and accordingly, DLVC confirmed the Community Certificate No.5201912036965 dated 05.12.2019 issued by the Tahsildar, Veppur / sixth respondent is genuine.

18. It is to be pointed out at this juncture that the purpose of verification of Community Certificate by Scrutiny Committees is to avoid false and bogus claims. Repeated inquiries for verification of caste/community certificates would be detrimental to the members of Scheduled Caste and Scheduled Tribes. Reopening of inquiry into the



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caste certificates can be done only in case they are vitiated by fraud or when they were issued without proper inquiry as held by the Hon'ble Apex Court in ***J.Chitra v. District Collector and Chairman, State Level Vigilance Committee, Tamil Nadu and Others [(2021) 9 SCC 811]***. In the case on hand, the order confirming the community certificate issued by the sixth respondent/Tahsildar as genuine had been passed by DLVC, after providing sufficient opportunity to the parties by way of personal hearing and to submit their documents and after conducting detailed inquiry, the said order came to be passed.

19. DLVC, being an expert scrutiny body, after conducting detailed enquiry and careful consideration of records, reports of revenue officials, Anthropological Report and Genealogical Chart, has confirmed the Community Certificate issued by the sixth respondent / Tahsildar, certifying that the seventh respondent Tmt.M.Maheswari belongs to Hindu Kuravan Scheduled Caste Community as genuine and therefore, the impugned order of the DLVC cannot be found fault with. The petitioner has not produced any tenable material to disprove the



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communal status of the seventh respondent. We are unable to find any reason to interfere with the impugned order passed by the respondents 2 to 4. The writ petition lacks merit and accordingly, the same is liable to be dismissed.

20. In the light of the reasons assigned above, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are dismissed.

[D.K.K., J.,] [P.D.B., J.]
25.07.2023

Index:yes/no
Internet:yes
Jvm

To

- 1.State Chief Election Commissioner,
Tamilnadu State Election Commission,
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**D.KRISHNAKUMAR, J.,
&
P.DHANABAL, J.**

Jvm

**Order in
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25.07.2023