



W.P.No.32212 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2023

CORAM

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

W.P.No.32212 of 2022
and W.M.P.No.31624 of 2022

R.Renganathan

... Petitioner

Vs.

1.The State Level Scrutiny Committee III,
Adi Dravidar and Tribal Welfare (CV-4) Department,
Secretariat,
Fort St. George,
Chennai – 600 009.

2.The District Collector,
Thanjavur.

3.The Principal Accountant General (Audit-I),
Lekha Pariksha Bahavan,
No.361, Anna Salai,
Teynampet,
Chennai – 600 018.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution to issue a Writ of Certiorari, to call for the records of the impugned proceedings No.11271/CV-2/2015-8 dated 27.03.2018 on the file of the 1st respondent and consequential proceedings Na.Ka.No.65669/2017/Ma9 dated



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07.06.2018 on the file of the 2nd respondent and quash the same

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For Petitioner : Mr.N.Naganathan

For R1 & R2 : Mrs.Rajarajeswari
Government Advocate

For R3 : Mr.V.Vijayshankar
Standing Counsel

* * * * *

ORDER

[Order of the Court was made by N.MALA,J.]

This writ petition is filed by the petitioner to call for the records of the impugned proceedings No.11271/CV-2/2015-8 dated 27.03.2018 on the file of the 1st respondent and consequential proceedings Na.Ka.No.64669/2017/Ma9 dated 07.06.2018 on the file of the 2nd respondent and quash the same.

2.The petitioner belongs to Konda Reddis Community which is a Scheduled Tribe community notified in serial No.12, Part XIV of Constitution Schedule Tribe Order, 1950. On 26.10.1977, the petitioner obtained a Community Certificate from the Head Quarters Deputy



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Tahsildar, Kumbakonam that he belonged to Konda Reddis (ST) Community. On 23.11.1978, he was selected to the post of Lower Division Clerk in the office of the 3rd respondent. As per the directions of the employer, he obtained a fresh community certificate on 20.11.1978 from the Tahsildar, Kumbakonam. Thereafter his employer referred the community certificate to the 2nd respondent for verification. The 2nd respondent in his order dated 09.06.2002 held that the community certificates of the petitioner were not genuine. The petitioner challenged the said order in W.P.No.32811 of 2002 and this Court on 14.08.2002 passed an order of status quo, directing him to file an appeal before the State Level Scrutiny Committee. Accordingly, the petitioner preferred an appeal to the State Level Scrutiny Committee on 26.08.2002. The State Level Scrutiny Committee issued notice to the petitioner on 19.11.2014 to appear for an enquiry to be held on 01.12.2014 along with the documents in support of his claim. Accordingly, the petitioner appeared before the Committee and produced all the required documents as also the community certificates of his close relatives, Balaraman and others. Meanwhile, the Vigilance cell forwarded its report dated 10.03.2015 to the State Level Scrutiny Committee vide C.No.8/DSP/SC/ST Vigilance Cell/Trichy Region/2014.



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On receiving the said report from Vigilance Cell, the 1st respondent on 22.06.2015 passed an order rejecting the petitioner's claim vide proceedings No.10232/CV-2/2012-11, holding that he did not belong to Konda Reddis Community. The said Committee did not furnish the reports of the DSP, Vigilance Cell and the Anthropologist which was against the procedure mandated for verification of the certificates. According to the petitioner the State Level Scrutiny Committee was influenced by the previous orders of the District Collector and the DSP and so the committee cancelled his certificates even without conducting fair enquiry. The petitioner therefore challenged the rejection order in W.P.NO.19076 of 2015 on the ground that there was gross violation of the guidelines issued in Kumari Madhuri Patil case reported in 1994 (6) SCC 241, and the orders passed in G.O.106, Adi Dravidar and Tribal Welfare Department, dated 15.10.2012. This Hon'ble Court allowed the writ petition on 27.08.2015 on the ground of failure to supply a copy of the vigilance report and remitted the matter to the 1st respondent to reconsider the issue afresh after affording proper opportunity of hearing on the vigilance report to the petitioner and further directed the Committee to examine all aspects of the matter, particularly, anthropological and ethnological traits, deity, rituals, customs, mode of



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marriage, death ceremonies, method of burial of dead bodies, etc., by the castes or tribes or tribal communities concerned in consultation with the experts in the field within a period of six weeks from the date of receipt of a copy of the order. Since, the petitioner's retirement benefits were not settled to him on the sole ground that the matter was pending before the State Level Scrutiny Committee, he filed O.A.No.368 of 2016 before the CAT, Chennai Bench and the same was allowed on 13.04.2016. Subsequently, the 3rd respondent challenged the order in O.A.No.368 of 2016 in W.P.No.1411 of 2018 and this Court vide order dated 26.02.2019 set aside the OA order. According to the petitioner when this Court set aside the earlier order of the 1st respondent and remitted the matter to the 1st respondent, the committee without reconsidering the issue afresh, again passed similar order in a mechanical manner by its proceedings No.11271/CV-2/2015-8, dated 27.03.2018. As there was total non application of mind and the order was passed against the principles of natural justice, the petitioner was constrained to file the above writ petition.

3.The 1st respondent filed a detailed counter denying all the averments



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made in the writ petition. The 1st respondent narrated the history of the litigation and stated that on three earlier occasions the respondent had cancelled the petitioner's community certificate stating that it was incorrectly obtained and hence there were no merits in the writ petition and the same deserved to be dismissed.

4.The 3rd respondent filed a counter denying all the allegations and averments made in the writ petition. Apart from tracing the history of the litigation the third respondent contended that as the petitioner's case did not fall under the purview of the 3rd respondent and as no relief was sought against the 3rd respondent, the 3rd respondent was not a necessary party to the writ petition.

5.At the time of hearing, the learned counsel appearing for the petitioner submitted that this Court in the earlier round of litigation had remitted the matter to the 1st respondent vide order dated 27.08.2015 in W.P.No.19076 of 2015. According to the learned counsel for the petitioner, the respondent did not follow the directions of this Court in the aforesaid order. The learned counsel further submitted that in spite of producing the documents in support of his claim for ST Community Certificate, the



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respondent without examining the same simply confirmed its earlier order dated 22.06.2015. The learned counsel referring to the communication sent by him to the Secretary to Government, Adi Dravidar and Tribal Welfare Department annexed at page No.87 of the typed set of papers submitted that the petitioner had produced several documents including the affidavit of his blood relative V.Balraman along with Family Tree Chart, the affidavit of Sri.R.Radhakrishnan blood relative along with Family Tree Chart but the same and the other documents were not considered by the authorities. The learned counsel further submitted that the respondent failed to note that the community certificate of V.Balraman (Father side blood relative) was confirmed on verification vide enquiry report No.K.Dis.220882/75 dated 24.09.1975. The learned counsel therefore submitted that the impugned order deserved to be set aside for totally ignoring the documents submitted by the petitioner.

6.The learned counsel for the 1st respondent submitted that the petitioner was called to appear before the State Level Scrutiny Committee on two occasions i.e. on 06.02.2017 and 25.07.2017, but he remained absent. The petitioner was not able to produce any information or any



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additional documents in favour of his claim of belonging to Kondareddis Community. Though the petitioner requested for three months time to produce the necessary documents as the committee had provided enough time to the petitioner it felt that no useful purpose would be served by giving him more time and another opportunity. The learned counsel for the 1st respondent submitted that there was no infirmity in the order passed by the State Level Scrutiny Committee and the same deserved to be confirmed.

7.We have heard both the learned counsels and we have perused the materials on record.

8.As rightly contended by the learned counsel for the petitioner the State Level Scrutiny Committee has not referred to any of the documents submitted by the petitioner referred to in page No.87 of the typed set of papers. It is also relevant to note here that the committee after tracing the history of the case rejected the claim of the petitioner on the short ground that no additional documents were filed by the petitioner. It is the petitioner's case that the certificates of his close relatives on the side of his father and mother were produced before the State Level Scrutiny Committee, but the same was denied by the respondent. We are therefore of



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the view that the petitioner should be directed to resubmit the documents.

At this point, the learned Special Government Pleader submitted that as the petitioner apprehends that even on resubmission the committee may not consider the same by stating that no documents were filed, a direction may be issued to the petitioner to submit the documents to her so she can communicate the same to the first respondent for passing orders thereon.

9.In the light of the submissions made by the respective learned counsels, we direct the petitioner to produce all the documents referred to at page No.87 of the typed set of papers to the Special Government Pleader, within a period of one week from the date of receipt of a copy of this order and the learned Special Government Pleader thereafter shall forward the same to the first respondent within a period of two days. Thereafter, the first respondent shall pass appropriate orders, within a period of four weeks. We consider it appropriate to refer here to the Judgment of the Hon'ble Supreme Court in the case of **MAH. ADIWASI THAKUR JAMAT SWARAKSHAN SAMITI versus THE STATE OF MAHARASHTRA & ORS.** reported in **2023 LiveLaw (SC) 241**, wherein the Hon'ble Supreme



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Court categorically held that:

“Only when the Scrutiny Committee after holding an enquiry is not satisfied with the material produced by the applicant, the case can be referred to Vigilance Cell. While referring the case to Vigilance Cell, the Scrutiny Committee must record brief reasons for coming to the conclusion that it is not satisfied with the material produced by the applicant. Only after a case is referred to the Vigilance Cell for making enquiry, an occasion for the conduct of affinity test will arise.”

10.The first respondent is directed to follow the aforesaid Judgment of the Hon'ble Supreme Court in it's letter and spirit. We hope that the respondent would not unnecessarily drive the petitioner to further litigation.

11.In view of the above directions, this Writ Petition stands allowed. However there shall be no order as to costs. Consequently the connected miscellaneous petition stands closed.

(J.N.B.,J.)

(N.M.,J.)

12.12.2023

Index: Yes/No



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

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Secretariat,
Fort St. George,
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- 2.The District Collector,
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