



W.P.No. 35538 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2023

CORAM

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

**W.P.No. 33538 of 2023
and
W.M.P.Nos.33355 and 33357 of 2023**

P.Janakiraman

... Petitioner

Vs

1.The Chairman,
State Level Scrutiny Committee-III,
Additional Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai – 9.

2.The Chairman,
Chennai Port Trust,
Chennai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the entire records leading to impugned proceedings No.16495/CV-6/2013-26, dated 15.11.2023 on the file of the 1st respondent and quash the same.

For Petitioner : Mr. N.Naganathan

For Respondents : Mrs.R.L.Karthika for R1
Government Advocate



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ORDER

(Order of the Court was made by J.Nisha Banu,J)

This writ petition has been filed challenging the order dated 15.11.2023 passed by the 1st respondent, by which, the "Hindu Kurumans" Scheduled Tribe community certificate issued to the petitioner was cancelled.

2.By consent of both parties, the main writ petition is taken up for final disposal at the admission stage itself.

3. (i) The case of the petitioner is that the petitioner belongs to Hindu Kurumans Schedule Tribe Community. He was issued with permanent ST community certificate by the Tahsildar, Pursaiwakkam-Perambur Taluk, vide certificate No.147966 dated 07.10.1988. He was also issued with another community certificate in the prescribed format by the Additional District Magistrate and Personal (G) to the Collector Chennai vide R.Dis.No.26491/1997 dated 15.05.1997. He was appointed as Clerk in General Pool Scheme of MDLB (Madras Dock Labour Board) in the 2nd respondent office on 04.08.1999, by order dated



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31.07.1999 under the quota reserved for Schedule Tribes and his service was confirmed with effect from 04.08.1999. Later on, he was promoted to the post of Junior Assistant in the year 2000, then Senior Assistant in 2006. Thereafter, he was not given any further promotion due to the pendency of verification of his social status. He is presently working as the Senior Assistant in the 2nd respondent organisation/Chennai Port Trust.

(ii) The 2nd respondent had referred his community certificate for verification to the District Level Vigilance Committee/District Collector, Tiruvallur in the year 2005, who in turn, referred to the Sub Collector, Ponneri, for his report. The Sub Collector, Ponneri, without giving any notice to the petitioner had conducted a discrete enquiry and forwarded his report to the District Collector, Thiruvallur, wherein, it is stated that the petitioner belongs to Kurumba and not “Kurumans” community. Based on the same, the District Level Vigilance Committee has given its conclusion that ST community certificate issued to him is not genuine by its report dated 18.08.2005. Since the committee has no authority to pass order, it referred to the 1st respondent/State Level Scrutiny



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Committee for further deliberation and passing final orders, by his letter dated 17.09.2008 as per G.O.Ms.No.108 dated 12.09.2007.

(iii) Since the petitioner's social status is pending before the 1st respondent, the 2nd respondent denied his further promotion. The alleged enquiry report of the District Level Vigilance Committee dated 18.08.2005 was not served to him till date with supportive documents. The Director of Tribal Welfare Department had requested the DSP, Social Justice and Human Rights Wing, Thiruvallur, for his enquiry report, in pursuant to that, an enquiry was conducted by the Vigilance Cell, which submitted a report by its proceedings dated April 2022 to the effect that the claim of the individual that he belongs to Hindu "Kurumans" is genuine. However, the Anthropologist concluded in her report that the petitioner's claim is not genuine. Pursuant to which, the 1st respondent passed the impugned order vide proceedings No.16495/CV-6/2013-26, dated 15.11.2023 concluding that the petitioner's claim is not genuine as no documentary evidence was furnished in respect of the ST community status of his father or mother to consider his claim.



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(iv) Since the petitioner was denied promotion, he filed a writ petition in W.P.No.30394 of 2018 before this Court seeking promotion and this Court had directed the 1st respondent committee to complete the enquiry and file its report. The 1st respondent had passed the impugned order in a hurried manner when the said Writ Petition is pending as on date. Hence, the present writ petition has been filed.

4. (i) Learned counsel for the petitioner would submit that the impugned order passed by the 1st respondent is against the principles of natural justice and clear violation of the order of this Hon'ble Court and the Hon'ble Supreme Court. The 1st respondent rejected his claim only on the reason that Anthropologist has given an adverse report against his social status. Learned counsel further submitted that when the 1st respondent differs from the report of the Vigilance Cell and follows the Anthropologist report, it ought to have issued show cause notice with reports and documents before proceeding further but the 1st respondent failed to do so.



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(ii) Learned counsel would further submit that once the Vigilance Cell concludes that the petitioner's claim is genuine, the 1st respondent ought to have accepted it and it has no power to proceed with further enquiry unless the report or particulars given are found to be false. The Anthropologist is only a supportive document and it cannot be treated as a conclusive document. Further, once the Vigilance Cell concluded that the claim of the petitioner is genuine, the State Level Scrutiny Committee cannot interfere with the same.

(iii) Learned counsel would further submit that in view of the impugned order passed by the 1st respondent, the 2nd respondent is initiating action against the petitioner to terminate the petitioner from service of the 2nd respondent organization. He would further submit that the petitioner is serving in the 2nd respondent organisation for a period of more than 24 years and till date, he is working under the 2nd respondent. At this stage, no purpose will be served in verifying the community status of the petitioner. The petitioner is now 51 years old and at this stage, verification of his community status is uncalled for.

(iv) In support of his submission, learned counsel drew the attention of this Court to the decision of this Court in the case of



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R.Kalyani vs. The Tamil Nadu State Level Scrutiny Committee-II,

Chennai and other in **W.P.No.25598 of 2021**, wherein, it has been held that the report of the Anthropologist could only be treated as another piece of material in deciding the entire issue and further reiterated that once the Vigilance Cell concludes that the claim is genuine, the State Level Scrutiny Committee cannot interfere with the said conclusion, which was not taken into consideration by the 1st respondent while passing the impugned order. Therefore, the impugned order dated 15.11.2023 passed by the 1st respondent cancelling the community certificate of the petitioner is arbitrary and illegal. Hence, he would pray that the impugned order passed by the 1st respondent has to be set aside.

5. Per contra, the learned Government Advocate appearing for the 1st respondent would submit that based on the request made by the Secretary, Chennai Port Trust, to cause verification of genuiness of the Hindu Kurumans Scheduled Tribe Community Certificate issued by Tahsildar, Purasaiwalkam - Perambur Taluk submitted by the petitioner, an enquiry was conducted. Since the reports submitted by two competent authorities viz., Deputy Superintendent of Police, Social Justice &



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Human Rights Wing, District Vigilance Cell, Thiruvallur and anthropologist concerned are contradictory in nature, the State Level Scrutiny Committee decided to finalize the genuineness of the Scheduled Tribe community certificate of the petitioner after conducting personal enquiry. Only after carefully and thoroughly scrutinising the documents submitted by the petitioner and the reports submitted by the officials, the State Level Scrutiny Committee found that the Hindu Kurumans Scheduled Tribunal Community Certificates are not genuine. Therefore, the State Level Scrutiny Committee directed the District Collector to confiscate the 'Hindu Kurumans' Scheduled Tribe Community Certificate as well as the 'Hindu Kurumans' Form of Caste Certificate submitted by the petitioner and further, recommended to take appropriate action against the petitioner as per law. Therefore, the learned counsel would submit that the order passed by the State Level Scrutiny Committee/1st respondent requires no interference by this Court and prayed to dismiss the writ petition.

6. Heard the learned counsel on either side and perused the materials available on record.



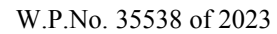
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7. It is seen from the records that the petitioner is working in the 2nd respondent organisation for a period of more than 24 years. The Government of India have issued guidelines periodically mandating all employers and authorities to undertake verification at the earliest point of time preferably at the time of one's entry into service.

8. Needless to point out that this Court has time and again held that the report of the Anthropologist is only a supportive document and it cannot be treated as a conclusive document. In the case on hand, there is a clear evidence to point out that the the petitioner has been favoured with the Certificates by the Tahsildar, Puraissaiwakkam in 1988 itself.

9. It would be apt and appropriate to refer to the judgment of this Court made in W.P.No.2828 of 2022 dated 25.11.2022 in this regard, wherein it has been held that the Report of the Anthropologist could only be treated as another piece of material in deciding the entire issue. In ***G.Venkitasamy and Another Vs. The Chairman, State Level Scrutiny***



10. In *G.Venkitasamy and Another Vs. The Chairman*

State Level Scrutiny Committee's case, a Division Bench of this Court had clearly pointed out that once the District Level Vigilance Cell concludes in favour of the petitioner, there can be no further enquiry, unless the State Level Scrutiny Committee comes to the conclusion, that the report is fraudulent then it is open to the Committee to issue notice to the petitioner and proceed further in accordance with law. In the absence of such conclusion, we do not think that the State Level Scrutiny



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Committee was right in taking a different view from that of the District Level Vigilance Cell.

11. We are, therefore, constrained to interfere and set aside the impugned order dated 15.11.2023 passed by the 1st respondent/Tamil Nadu State Level Scrutiny Committee, accordingly, the same is set aside. We conclude that the community certificate issued to the petitioner is genuine. The Writ Petition is allowed. If the petitioner is terminated from service based on the impugned order, the employer/second respondent is directed to reinstate him with all service and monetary benefits forthwith. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

(J.N.B,J.) (N.M., J.)
29.11.2023

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

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