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W.P.No.34272 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2023

CORAM

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

W.P.No.34272 of 2023
and
W.M.P.No.34164 of 2023

M.Navaneethan,
S/o Muthukrishnan

...Petitioner

vs

The Tamil Nadu State Level Scrutiny Committee-II,
Adi Dravidar and Tribal welfare Department (CV-5),
Namakkal Kavingar Maligai,
Secretariat,
Chennai - 600 009
rep. by its Chairman

..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the enquiry notice in letter No.6937/CV-2(2)/2015-7 dated 21.11.2023 on the file of the respondent and quash the same in the light of the order passed by the Hon'ble Supreme Court in SLP(C)No.24458/2019 dated 03.03.2023 and the order passed by this Court in W.P.No.29269 of 2022 dated 06.11.2023.



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For Petitioner : Mr.S.Doraisamy

For Respondent : Mrs.Mythreyechandru,
Special Government Pleader

ORDER

This writ petition has been filed challenging the enquiry notice in letter dated 21.11.2023 issued by the respondent, by which, the petitioner was called for an enquiry to be held on 08.01.2024 in respect of verification of genuineness of his Scheduled Tribe "Hindu Kondareddis" Community Certificate.

2. The case of the petitioner is that he belongs to Kondareddis Community which is a Scheduled Tribe and he obtained the said certificate on 01.09.1973 from the Tahsildar, Nanguneri, who was the competent authority at that time. He appeared for selection to the post of Clerk in the Canara Bank. The Superintendent of Canara Bank requested the Tahsildar, Nanguneri to verify the petitioner's community certificate dated 01.09.1973 and the Tahsildar sent a report to the Superintendent that the petitioner belongs to Kondareddis (ST) Community. Only after verification, he was appointed as a Clerk in Canara Bank on 13.12.1978. However, the District Level Vigilance Committee, without conducting proper enquiry, cancelled the petitioner's community certificate on 02.02.2000. Challenging the same, the petitioner



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filed a writ petition in W.P.No.5114 of 2000. The said writ petition was allowed on 01.02.2002 with liberty to the respondent to verify the genuineness of the community certificate of the petitioner as per *Kumari Madhuri Patil's case*. In the meanwhile, the petitioner retired from service on 29.02.2012. The Bank Management released all his terminal benefits and he is receiving pension also. Subsequently, the 1st respondent referred the matter to the Vigilance Cell Officer, Tiruvelveli District, who submitted his report to the Director of Tribal Welfare Department on 15.03.2021. On receipt of the said report, the Director of Tribal Welfare Department issued a show cause notice calling the petitioner for explanation and the petitioner also submitted his explanation on 16.04.2021. After 11 years of the petitioner's retirement, the present impugned notice was issued calling him for enquiry to be held on 08.01.2024. Hence, the present writ petition.

3. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondent and perused the materials available on record.

4. It is seen from the records that the petitioner retired from service on 29.02.2012 and he was sanctioned pension and other terminal benefits. At this stage, verification of his community status is uncalled for. The Government of



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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. In the present case the petitioner, had completed 33 years of unblemished record of service and retired in the year 2012.

5. Further, the petitioner has also stated that in the affidavit that he will not claim reservation benefits based on his community certificate in future for his family members. Paragraph No.7 of the affidavit filed in support of the present writ petition reads as follows:

"7. I have one son and one daughter and both are married. I state that I undertake that I will not claim reservation benefit based on my community certificate in future or use the certificate as proof for my family members. Hence, it is just and necessary to direct the respondents to drop the delayed enquiry."

The aforesaid undertaking given by the petitioner in the affidavit filed by him is recorded.

6. It is pertinent to point out that the Hon'ble Apex Court and various High Courts, have time and again stressed that verification after retirement is a wasteful exercise and would be purely academic. In similar circumstances, in



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SLP(C)No.24458/2019 dated 03.03.2023, the Hon'ble Apex Court has held as follows:

"It is submitted that the respondent No.1 who served in the Railways had superannuated on 28.02.2022 and therefore, the exercise in this case would largely be academic on the aspect of whether she belonged to the claimed Scheduled Tribe category.

Considering the above, we deem it is appropriate to order of closure of the proceedings.

According, the Special Leave Petition stands disposed of."

7. Considering the facts and circumstances of the case and taking into account the undertaking given by the petitioner and also in the light of the above decision of the Hon'ble Apex Court, we are inclined to set aside the impugned notice passed by the respondent. Accordingly, the impugned notice dated 21.11.2023 passed by the respondent is hereby set aside.

8. The Writ Petition stands allowed. No costs Consequently, connected miscellaneous petition is closed.

(J.N.B., J.) (N.M., J.)
08.12.2023

vsi

Index : Yes / No

Internet : Yes / No



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To

The Chairman,
Tamil Nadu State Level Scrutiny Committee-II,
Adi Dravidar and Tribal welfare Department (CV-5),
Namakkal Kavingar Maligai,
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