



W.P.No. 34886 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2023

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

and

THE HONOURABLE MRS. JUSTICE N.MALA

W.P.No. 34886 of 2023

and W.M.P.No.34878 of 2023

S.Rajendran

..Petitioner

Vs.

1. The Chairman
Tamilnadu State Level Scrutiny Committee-II,
Adi Dravidar and Tribal Welfare Department
Namakkal Kavingar Maligai
Secretariat, Chennai-9

2. The Director of Tribal Welfare
Member Secretary
District Level Scrutiny Committee
Chepauk, Chennai-5

3. The Deputy Superintendent of Police
SC/ST Vigilance Cell
Madurai Division
Madurai-625020

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent

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in its Na.ka.No.Pa.ma/A1/4917/2017 dated 31.10.2023 and quash the same and consequently forbear the respondents from proceeding with verification of the petitioner's community status, more than 8 years after retirement in the light of the judgment of the Supreme Court of India in S.L.P.No.24458 of 2019 dated 03.03.2023.

For Petitioner : Mr.V.Vijay Shankar

For Respondents : Mrs.Mythreye Chandru for R1 and R2
Special Government Pleader
Mr.S.Rajkumar for R3
Additional Public Prosecutor

ORDER

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

This writ petition has been filed challenging the proceedings dated 31.10.2023 of the 2nd respondent calling the petitioner for enquiry regarding the community status of the petitioner and consequently forbear the respondents from proceeding with verification of the petitioner's community status after a period of 8 years from the date of his retirement in the light of the judgment of the Supreme Court of India in S.L.P.No.24458 of 2019 dated 03.03.2023.



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2. It is averred in the writ petition that the petitioner belongs to Konda Reddis Community which is classified as Scheduled Tribe. He was issued with a community certificate on 24.12.1976, by the Tahsildar. He joined service with the New India Assurance Company in the year 1983. He attained the age of superannuation on 31.01.2015 after 32 years of service.

3. The petitioner submits that the employer had paid his contribution of Provident fund and leave encashment but did not pay the management contribution and gratuity. Hence, the petitioner was constrained to file the writ petition in W.P.No.8035 of 2018 before the Madurai Bench of the High Court and the same was allowed vide order dated 15.02.2022. Thereafter, the employer preferred an appeal in W.A.No. 766/2022 and the same is pending. The District Level Vigilance Cell initiated enquiry proceedings in the year 2002, against which, he filed a writ petition in W.P.No.17174 of 2002. This Court allowed the said writ petition by observing that it was the State Level Scrutiny



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Committee which was competent to make verification. Thereafter, the State Level Scrutiny Committee did not summon the petitioner for enquiry.

4. In the meanwhile, the petitioner attained superannuation on 31.01.2015. After a period of 8 years from the petitioner's superannuation, on 20.10.2023, the 3rd respondent summoned him for enquiry regarding his community certificate. Since the petitioner did not appear for the enquiry, they made enquiries without the presence of the petitioner and submitted a report to the 2nd respondent on 29.10.2023. On the basis of 3rd respondent's report, the 2nd respondent issued a show cause notice dated 31.10.2023 for enquiry. Aggrieved by the same, the present writ petition has been filed.

5. The learned counsel for the petitioner produced an undertaking affidavit of the petitioner before this Court, in which, paragraph No.4 reads as follows:



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“4. I submit that based on my caste certificate, neither my son nor any other member of my family have obtained caste certificates in their favour to the effect that they belong to the ST community. I further submit that neither myself nor my children/family members will, in future, make any claim or derive any concession or benefits on the basis of my caste certificate.”

6. We have considered the submissions made on either side and perused the materials available on record.

7. It is seen from the records that the petitioner obtained community certificate in the year 1976 itself from the Tahsildar, stating that he belongs to Konda reddy (ST) community. The petitioner retired from service and he was sanctioned with provident fund and leave encashment except other management contributions and gratuity. We are of the view that at this stage, after a period of eight years, making



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enquiry in respect of the petitioner's community certificate is uncalled for. 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. In the present case, the petitioner has completed 32 years of service and retired in the year 2015.

8. 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 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 has 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.



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Considering the above, we deem it is appropriate to

order for closure of the proceedings.

*Accordingly, the Special leave Petition stands
disposed of.”*

9. In the light of the above decision of the Hon'ble Apex Court and the affidavit filed by the petitioner, we are inclined to record the undertaking affidavit filed by the petitioner and set aside the impugned order dated 31.10.2023. Accordingly, the writ petition stands disposed of in terms of the undertaking affidavit of the petitioner dated 16.12.2023. The impugned order dated 31.10.2023 is quashed. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B.,J.) (N.M.,J.)
21.12.2023

Index : Yes / No
Speaking Order : Yes/No
Internet:Yes/No
Neutral Citation: Yes/No
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To

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