



W.P.No. 34889 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. 34889 of 2023

and W.M.P.Nos.34882 and 34883 of 2023

D.Senthamil Selvan

..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 Deputy Superintendent of Police
Social Justice and Human Rights Wing
District Police Office,
Nethimedu, Salem-2.

..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 in C.No.SJHR/SLM/2017 dated 30.11.2023 and quash the same and consequently forebear the respondents from proceeding with verification of the petitioner's community status in the light of the judgment of the Supreme Court of India in S.L.P.No.24458 of 2019 dated 03.03.2023.

Page No:1/7



W.P.No. 34889 of 2023

For Petitioner : Mr.V.Vijay Shankar
For Respondents : Mrs.Mythreye Chandru for R1
Special Government Pleader
Mr.S.Rajkumar for R2
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 30.11.2023 of the 2nd respondent calling for 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 at the verge 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.

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 by the Tahsildar in September 1978. He joined as constable in the Central Industrial Security Force in the year 1984. While so, on the basis of a complaint, the CISF authorities

Page No:2/7



W.P.No. 34889 of 2023

terminated his services on 07.02.2022 when he had hardly four(4) months of service left for his superannuation i.e, on 30.06.2022. He also filed an appeal and the same is pending. However, after 39 years of his appointment, the 2nd respondent issued notice dated 30.11.2023 directing him to appear for enquiry on 10.12.2023. Aggrieved by the same, the present writ petition.

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

“4. I submit that based on my caste certificate, neither my daughters 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.”

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



W.P.No. 34889 of 2023

5. It is seen from the records that the petitioner obtained community certificate in the year 1978 itself from the Tahsildar, stating that he belongs to Konda reddy community. 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. The petitioner has completed 39 years of service. Based on a complaint, he was superannuated on 30.06.2022. The petitioner filed an appeal and the same is pending before the Competent Authority.

6. 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.



W.P.No. 34889 of 2023

Considering the above, we deem it is appropriate to

WEB COPY *order for closure of the proceedings.*

*Accordingly, the Special leave Petition stands
disposed “*

7. Taking into consideration the facts of the case and the affidavit filed by the petitioner and in the light of the above decision of the Hon'ble Apex Court, we are inclined to record the undertaking affidavit filed by the petitioner and set aside the impugned notice dated 30.11.2023.

8. Accordingly, the Writ Petition stands allowed. The impugned notice dated 30.11.2023 is quashed. The undertaking affidavit of the petitioner dated 16.12.2023 is recorded. No costs. Consequently, connected miscellaneous petitions are 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
msv



W.P.No. 34889 of 2023

To

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Adi Dravidar and Tribal Welfare Department
Namakkal Kavingar Maligai
Secretariat, Chennai-9

2. The Deputy Superintendent of Police
Social Justice and Human Rights Wing
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W.P.No. 34889 of 2023

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