



W.P.(MD) No.19939 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date of Reserving the Order	Date of Pronouncing the Order
14.12.2022	12.01.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD) No.19939 of 2018
and
W.M.P.(MD) No.16357 of 2021**

R.Prakasam

... Petitioner

-VS-

- 1.The Chairman
State Level Scrutiny Committee and
Secretary to Government
Adi Dravidar and Tribal Welfare Department
Chennai-600 009
- 2.The Revenue Divisional Officer
Madurai District, Madurai
- 3.The Secretary
Medical Selection Committee
162, E.V.R.Periyar Salai, Chennai-10
- 4.The Secretary
Office of the Ministry of Tribal Affairs
Shastri Bhawan A-Wing
Dr.Rajendra Prasad Road, New Delhi-110 001



W.P.(MD) No.19939 of 2018

5.The Secretary
Office of the Medical Counseling
Government of India
Directorate General of Health Service
Nirman Bhavan, New Delhi-110 001
[R3 is impleaded *vide* Court order
dated 23.11.2022 in W.M.P.(MD)
No.16356 of 2021]
[R4 & R5 are impleaded *vide* Court
order dated 23.11.2022 in W.M.P.
(MD) No.16907 of 2021]

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned proceedings of the first respondent in his proceeding in No. 4818/CVIII/2017-5, dated 27.03.2018 and quash the same as illegal and consequentially to direct the respondent to declare that the petitioner belongs to Hindu Kattunayakan Community classified as Schedule Tribe, within the time stipulated by this Court.

For Petitioner : Mr.R.Prakasam

For Respondents : Mr.R.Baskaran
Additional Advocate General
assisted by Mr.V.Nirmal Kumar
Government Advocate for R1 to R3

ORDER

D.KRISHNAKUMAR, J.

Challenge in this writ petition is to the order No. 4818/CVIII/2017-5, dated 27.03.2018, passed by the first respondent, with a consequential direction to the respondents to declare that the petitioner



W.P.(MD) No.19939 of 2018

belongs to Hindu Kattunayakan Community, which is classified as Schedule Tribe, within the time stipulated by this Court.

2. During 2004, the petitioner applied for Hindu Kattunayakan Scheduled Tribe Community Certificate to the second respondent. The second respondent, *vide* proceedings dated 26.04.2006, rejected the petitioner's claim on the ground that he has not produced sufficient documents to prove his claim. On appeal, the petitioner appeared before the District Level Vigilance Committee, Madurai, for enquiry on 18.09.2008. Even before the District Level Vigilance Committee, he could not produce the documents to show that he belongs to Hindu Kattunayakan community.

3. In the meantime, during 2008, the petitioner got admission in B.L. Degree in Madurai Law College, based on the directions issued by this Court *vide* order dated 22.10.2008, subject to the pending verification of the community certificate. Thereafter, on the request made by the Principal of the Law College, on 10.05.2012, the District Collector, Madurai, enquired the petitioner with regard to his communal status. Based on the documents produced by the petitioner, spot enquiry report of the second respondent and the views of the Anthropologist, the District Level Vigilance Committee,



W.P.(MD) No.19939 of 2018

Madurai, came to the conclusion that the petitioner is not belonging to Hindu Kattunayakan community and he belongs to Boyar community, which is not a scheduled caste community and dismissed the appeal *vide* order dated 24.05.2012.

4. Challenging the same, the petitioner preferred an appeal before the State Level Scrutiny Committee, on 07.06.2012. The State Level Scrutiny Committee, after examining the documents produced by the petitioner, reports of the Revenue Divisional Officer, Madurai, District Level Vigilance Committee, Madurai as well as the Vigilance Cell (Madurai Division), *vide* order dated 31.10.2013, dismissed the appeal and confirmed the order dated 24.05.2012 passed by the District Level Vigilance Committee.

5. Aggrieved over the dismissal order passed by the State Level Scrutiny Committee, the petitioner filed W.P.(MD) No.20834 of 2013 and this Court, by order dated 06.02.2017, set aside the order dated 31.10.2013, passed by the State Level Scrutiny Committee, on the ground of non-furnishing of the report of the Vigilance Committee to the petitioner as per the decision in ***M.Ayyanar vs. The District Collector and others [2016 (1) CWC 359]*** and directed the State Level Scrutiny Committee to issue notice to the



W.P.(MD) No.19939 of 2018

petitioner to appear for enquiry by furnishing the report of the Vigilance Committee, within a period of two weeks and on receipt of the same, the petitioner was directed to appear for enquiry along with relevant documents to substantiate his claim and on production of documents, the State Level Scrutiny Committee was directed to consider the same and pass appropriate orders, preferably within a period of six weeks.

6. Based on the above directions issued by this Court, the Director, Tribal Welfare, issued a show cause notice and the petitioner submitted his reply to the show cause notice. Subsequently, the State Level Scrutiny Committee directed the petitioner to appear for enquiry and during enquiry, the petitioner produced some documents to substantiate his claim. However, the State Level Scrutiny Committee was of the view that the documents produced by the petitioner are not sufficient to prove his claim and therefore, *vide* order dated 27.03.2018 confirmed its earlier order dated 31.10.2013. Challenging the same, the present writ petition has been filed.

7. The first respondent has filed a counter affidavit denying the averments made by the petitioner. According to the first respondent, though sufficient opportunity was given to the petitioner, he has not produced



W.P.(MD) No.19939 of 2018

sufficient documents to show that he belongs to Kattunayakar community, rather he produced the documents, which were produced earlier. Therefore, the first respondent prayed for dismissal of the writ petition.

8. The learned counsel for the petitioner submitted that the impugned order is liable to interfered with on the ground of violation of principles of natural justice as the petitioner was not served with a copy of the report of the Vigilance Committee as per the decision in **M.Ayyanar's** case (cited supra) and no sufficient opportunity of personal hearing was granted to the petitioner. Further, the impugned order has been passed contrary to the directions issued by this Court *vide* order dated 06.02.2017 in W.P.(MD) No. 20834 of 2013 as well as the Government Orders in G.O.(2D) No.108, Adi Dravidar and Tribal Welfare (CV-I) Department, dated 12.09.2007 and G.O. (Ms) No.111, Adi Dravidar and Tribal Welfare Department, dated 06.07.2005 and the impugned order is not supported by the report of the Anthropologist or Vigilance Committee. On these grounds, the learned counsel for the petitioner prayed for allowing the writ petition.

9. The learned Additional Advocate General appearing for the respondents vehemently opposed the above submissions of the petitioner and



W.P.(MD) No.19939 of 2018

submitted that the petitioner was afforded with sufficient opportunity of personal hearing to substantiate his claim. The Director, Tribal Welfare, issued a show cause notice to the petitioner and the State Level Scrutiny Committee, after examining the reply given by the petitioner, arrived at a conclusion that the petitioner is not belonging to the Hindu Kattunayakan community and there is no violation of G.O.(2D) No.108, dated 12.09.2007 and G.O.(Ms) No.111, dated 06.07.2005.

10. Further, as per the guidelines issued by the Apex Court in ***Kumari Madhuri Patil and another vs. Additional Commissioner, Tribal Development and others [1994 AIR SCW 4116]***, a Vigilance Cell was constituted in this matter and the Vigilance Cell conducted a thorough enquiry and submitted a report, based on which, the State Level Scrutiny Committed has passed the impugned order. Hence, on these grounds, the writ petition is liable to be dismissed.

11. We gave our anxious consideration to the rival submissions and carefully perused the materials available on record.



W.P.(MD) No.19939 of 2018

WEB COPY

12. The Government, pursuant to the directions issued by the Apex Court in **Madhuri Patil's** case (cited supra), by G.O.(2D) No.18, Adi Dravidar and Tribal Welfare Department, dated 01.04.1997, constituted District Level Vigilance Committees at District Level and State Level Scrutiny Committees at State Level to verify the genuineness of the community certificates issued to the Scheduled Castes / Scheduled Tribes and framed guidelines to the functioning of those Committees. Subsequently, by G.O.(Ms) No.111, Adi Dravidar and Tribal Welfare Department, dated 06.07.2005, reconstituted the District Level Vigilance Committee. Thereafter, in order to protect the welfare of the genuine Scheduled Castes / Scheduled Tribes people from false claimants, in supersession of the orders and guidelines issued, the Government, *vide* G.O.(2D) No.108, Adi Dravidar and Tribal Welfare (CV-I) Department, dated 12.09.2007, modified the constitution of the District Level Vigilance Committee and State Level Scrutiny Committee as well as their functions.

13. Pursuant to the said G.O.(2D) No.108, dated 12.09.2007, the District Collector is the Chairman, District Adi Dravidar and Tribal Welfare Officer is the Member Secretary and the Anthropologist is the Member of the



W.P.(MD) No.19939 of 2018

District Level Vigilance Committee and the function of the said Committee is to scrutinize the genuineness of the community certificate issued as Scheduled Caste and to pass final orders.

14. Likewise, the Secretary to Government, Adi Dravidar and Tribal Welfare Department is the Chairman, Director / Commissioner Tribal Welfare is the Member Secretary and the Anthropologist is the Member of the State Level Scrutiny Committee and the function of the said Committee is to scrutinize the genuineness of the community certificates issued as Scheduled Tribes and to pass final orders.

15. A perusal of the materials shows that before the State Level Scrutiny Committee, the petitioner produced the following documents to substantiate his claim that he belongs to Hindu Kattunayakar community:

- (i) Land documents of the year 1946 stand in the name of his grandfather P.V.R.Ram Naidu.
- (ii) Military Canteen Card issued on 20.11.2009, to his mother R.Lakshmi.
- (iii) Revenue Standing Order 15.



W.P.(MD) No.19939 of 2018

- (iv) Certificate issued by the Headmaster, A.R.Lion Corporation Elementary School, Madurai.
- (v) Record Sheet for the period from 1972-1976.

On verification, it was found that the name of the the petitioner's grandfather *viz.* P.V.R.Ram Naidu itself denotes the caste name “Naidu”. Further, in the Military Canteen Card issued to the petitioner's mother Lakshmi on 20.11.2009, the caste name is recorded as Kattunayakar and the Headmaster of A.R.Lion Corporation Elementary School, Madurai, where the petitioner studied, has issued a certificate stating that the petitioner belongs to Naidu community as per his admission register. Further, in the record sheet also, the caste name is recorded as “Naidu”.

16. That apart, the Revenue Divisional Officer, Madurai, conducted a spot enquiry in the petitioner's native place to verify his communal status. On enquiry, it was found that the petitioner's father was in Military Service and he died on 22.09.1982. His elder brother R.Jaya Krishnan is working in State Bank of India, Madurai and in his service register, the caste name is recorded as Hindu Boyer. In the SSLC book of the petitioner, his caste name is mentioned as Vadukan, Most Backward Class. Accordingly, the Revenue Divisional Officer, Madurai, submitted a report



W.P.(MD) No.19939 of 2018

dated 26.04.2006, stating that the petitioner is not belonging to Schedule Tribe Kattunayakan community.

17. Further, the District Level Vigilance Committee, Madurai, after conducting a detailed enquiry and examining the report of the Revenue Divisional Officer, Madurai and views of the Anthropologist, came to the conclusion that the petitioner is not belonging to Hindu Kattunayakan community and belongs to Boyer community, *vide* proceedings dated 24.05.2012 rejected the petitioner's claim.

18. Similarly, the Vigilance Cell (Madurai Division) enquired the petitioner's mother Lakshmi Ammal and cousin brother C.Balamurugan. On enquiry, Lakshmi Ammal stated that she belongs to Reddiyar community and her husband (petitioner's father) belongs to Naicker community and their marriage is an inter-caste marriage. Cousin brother Balamurugan has stated that he belongs to Boyer community, which is a Most Backward Class and he produced a copy of his Transfer Certificate, wherein his caste name is recorded as Boyer MBC and further, he stated that no Kattunayakan people are living in his village.



WEB COPY

W.P.(MD) No.19939 of 2018

21. That apart, the anthropologist also examined the cultural and social traits of the petitioner and on examination, it was found that the petitioner is not having any tribal characters of Kattunayakan community.

22. In view of the above facts and circumstances and discussions, the petitioner has not placed any substantial material to prove that he belongs to Kattunayakan community, which is notified as Schedule Tribe. Therefore, we find no force on the contentions of the petitioner and the writ petition is, therefore, liable to be dismissed.

23. In the upshot, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.]

[R.V., J.]

12.01.2023

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

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W.P.(MD) No.19939 of 2018

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Secretary to Government,
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Chennai-600 009.
- 2.The Revenue Divisional Officer,
Madurai District, Madurai.
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WEB COPY



W.P.(MD) No.19939 of 2018

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R.VIJAYAKUMAR, J.

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ORDER
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