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W.P.(MD)NO.24153 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.10.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.24153 of 2023 AND
W.M.P.(MD)No.20308 of 2023

P.S.Sabapathi

... Petitioner

Vs.

1. The District Collector,
Thenkasi,
Thenkasi District.

2. The Revenue Divisional Officer,
Sankarankovil Division,
Sankarankovil,
Thenkasi District.

3. The Tahsildar,
Sankarankovil Taluk Office,
Sankarankovil Taluk,
Thenkasi District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the third respondent in rejecting the petitioner's application No.TN-8620230912127 dated 12.09.2023 for economically weaker section (Income and assets) certificate, quash the same as illegal, mala fide, arbitrary, non-application of mind and direct the third respondent to issue economically weaker section (Income and assets) certificate to the petitioner.



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For Petitioner : Mr.B.Muneeswaran

For R-1 to R-3 : Mr.Veera Kathiravan,
Additional Advocate General,
assisted by,
Mr.M.Sidharthan,
Additional Government Pleader.

* * *

ORDER

Heard both sides.

2. The petitioner applied to the third respondent for being issued with what is known as Economically Weaker Section (Income and Assets) certificate to be produced by the economically weaker section. The petitioner's request was negatived. In fact on more than one occasion, the third respondent said “ no “ to the petitioner. Challenging the stand of the third respondent, the present writ petition came to be filed.

3. The petitioner had completed his MBBS degree. He is an aspirant for joining PG course. He wants to be



considered under the Central quota. It is for this purpose, the petitioner seeks EWS certificate.

4. As rightly pointed out by the learned Additional Advocate General, following the 103rd amendment, reservation has been made for EWS. But then, this reservation will not be applicable for persons already enjoying any social reservation benefit. Under the current position, a person belonging to SC/ST as well as OBC are eligible for reservation even under the Central Government educational institution and employment. The petitioner belongs to Ganjam Reddy community. It is a recognised BC community and it is figuring as OBC in the list issued by the Central Government.

5. It is therefore obvious that the petitioner will not be entitled to reservation meant for economically weaker section. The petitioner draws my attention to the certificate dated 31.05.2023 issued in favour of one G.Rajee, D/o.Ganapathi. She belongs to Reddy Ganjam community. When I questioned the learned Additional Advocate General about the issuance of certificate for G.Rajee represents Reddy



Ganjam community, he pointed out that erroneous issuance of certificate for another applicant cannot furnish cause of action for the petitioner to claim the same benefit. The Hon'ble Full Bench of this Court in the decision reported in **2021 (2) CTC 801 (The State V. S.Rajaram)** held as follows:-

“19. It is well settled that Article 14 of the Constitution of India cannot be invoked for perpetuating illegality. A wrong order passed in one case cannot be made the basis for compelling a public authority to pass similar order in any other case. Even if the State implements an erroneous order passed by the Court, it cannot be precluded from challenging a similar order passed in another case, simply because appeal was not preferred in the earlier case (Paragraph No.17 in State of Madhya Pradesh Vs. Ramesh Chandra Bajpai, reported in (2009) 13 SCC 635)”

6. In this view of the matter, the order impugned in



this writ petition is sustained. This writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.10.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes/ No

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To:

1. The District Collector,
Thenkasi,
Thenkasi District.
2. The Revenue Divisional Officer,
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G.R.SWAMINATHAN,J.

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