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WP.Nos.477 and 804 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2024

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

WP.Nos.477 and 804 of 2023
and WMP.No.426 and 758 of 2023

V. Lega

...petitioner in WP.No.477 of 2023

Vs.

1. The Chairman,
State Level Scrutiny Committee-I/
Additional Chief Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai 600 009.
2. Deputy Conservator of Forest/Member Secretary,
State Level Scrutiny Committee-III,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai 600009.
3. The Member, State Level Scrutiny Committee-III,
Senior Lecture Cultural Anthropologist,
Tribal Research Centre, M.Palada,
Udhagamandalam 643004.
4. The Director,
Tribal Welfare,
Chepauk, Chennai 600005.
5. The District Collector,
O/o Collector Office,
Cuddalore, Cuddalore District.
6. The Chief Educational Officer,
O/o Chief Educational Office,
Cuddalore -1, Cuddalore District.

V. Ladha

...respondents in WP.No.477 of 2023
...petitioner in WP.No.804 of 2023



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Vs.

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Senior Lecture, Cultural Anthropologist,
Tribal Research Centre, M.Palada,
Udhagamandalam 643004.
4. The Director,
Tribal Welfare,
Chepauk, Chennai 600005.
5. The District Collector,
O/o Collector Office,
Cuddalore, Cuddalore District.
6. The Commissioner of Treasuries and Accounts,
O/o Commissioner of Treasuries and Accounts Office,
3rd Floor, Perasiriyar K.Anbazhagan Maaligai,
No.571, Anna Salai, Nandanam,
Chennai 6000035.

...respondents in WP.No.804 of 2023

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari, calling for the records of the 1st respondent's proceedings of the Tamil Nadu State Level Scrutiny Committee-III, Adi Dravidar and Tribal Welfare Department, dated 08.12.2022 and quash the same.

For petitioner

: Mr.V.Ayyathurai, Senior Counsel



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for Mr.T.N.Bhuvaneswaran

For respondents

: Mrs.V.Yamuna Devi

COMMON ORDER

(The Order of the Court was made by S.S.SUNDAR, J)

These Writ Petitions have been filed to quash the proceedings of the first respondent, dated 08.12.2022.

2. The brief facts that are necessary for disposal of these Writ Petitions are as follows:

The petitioners' father originated from Kodaikanal, Dindugal District. While the petitioners' father working as a Post Master in Kodaikanal, he married his first wife. Subsequently, when he was transferred to Cuddalore, he married the petitioners mother, who was a Staff Nurse in Government Hospital at Cuddalore, without informing about his first marriage and the petitioners were born to them. Though the petitioners' father hails from Kodaikanal, Dindugal District he migrated to Cuddalore for the purpose of employment.



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3. The case of the petitioners is that the petitioners' father and the petitioners belong to Hindu Irular Community, which is listed under the Scheduled Tribes. The petitioners after completing their education acquired employment based on the Hindu-Irular Community. The petitioner in WP.No.477 of 2023 is working as Secondary Grade Teacher and the petitioner in WP.No.804 of 2023 is working as Accounts Officer at the Commissionerate of Treasuries and Accounts Department. However, on a complaint filed by one Mr.Krishnan, proceedings were initiated against the petitioners regarding the genuineness of the community certificate. After enquiry, the State Level Scrutiny Committee/first respondent declared that the certificates produced by the petitioners were not genuine. It is in this circumstances, the petitioners filed the above Writ Petitions challenging the order of the first respondent as illegal and unsustainable in law.

4. The learned Senior Counsel appearing for the petitioners submitted that several documents were produced by the petitioners to show that they belong to Hindu-Irular, which is a Scheduled Tribe Community. The first respondent while passing order though referred to several facts, has not given sufficient reasons for discarding the documents filed by the petitioners. He further submitted that the impugned order is passed without



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giving sufficient opportunity to the petitioners to put forth their case.

Therefore, the impugned order is in violation of principal of natural justice.

5. On a perusal of the impugned order, particularly paragraphs 8 and 9, it is clear that opportunity was given to the petitioners to appear before the Committee and attend enquiry along with documents. Though the petitioners were directed to appear in person along with relevant documentary evidence, they had neither appeared in person nor submitted any document to substantiate their claim.

6. However, the fact that Vigilance Cell, Cuddalore has submitted its report through Deputy Superintendent of Police after enquiry to the effect that the petitioners belong to Hindu 'Irular', Scheduled Tribe Community and that the community certificate issued to the petitioners are genuine is admitted in para 7 of the order. The State Level Scrutiny Committee very strongly observed that the documentary evidence enclosed in the Vigilance Cell Report are not in favour of the the petitioners without any discussion. The State Level Scrutiny Committee thereafter examined several records/ documents of the petitioners, which were tabulated in the impugned order. Though the third column of the table shows remarks of the State Level



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Scrutiny Committee, this Court finds that there is no discussion to sustain the inference drawn by the first respondent while passing the impugned order. Further, though several points were mechanically recorded by the first respondent, this Court is unable to find any application of mind by the first respondent. The operative portion of the impugned order simply states that based on the scrutinization of above documentary evidence available with the Committee, the State Level Scrutiny Committee has concluded that the petitioners belong to 'Gavara Naidu' and not belong to 'Irular Community'. Though this Court is not convinced with the point raised by the petitioners that no opportunity was given to them, we are of the view that the impugned order was passed by the first respondent mechanically without an application of mind, which resulted in injustice and miscarriage of justice. Therefore, the impugned order cannot be sustained for want of reasons to discard every document and contention of the petitioners. The reasons given by the Committee for not relying upon the report of Vigilance Cell cannot be accepted in the absence of very strong reason.

7. It is to be noted that the petitioner secured employment on the basis of their community status as seen from the Community Certificate. Therefore, this Court remits the matter to the State Level Scrutiny



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Committee for fresh consideration and the first respondent shall conduct fresh enquiry on the verification of community certificate and community status of the petitioners and pass final orders on merits and in accordance with law within a period of sixteen weeks from the date of receipt of a copy of this order, after giving adequate opportunity to the petitioners to substantiate their claim. Accordingly, these Writ Petitions are disposed of.

8. From the impugned order it is clear that though the petitioners were given sufficient opportunity to appear and produce documents on their side to prove their claim regarding community status, the petitioners did not cooperate and refused to appear. Hence, a direction is issued to the petitioners to cooperate in the process of verification of the Community Certificate by the State Level Scrutiny Committee. No costs. Consequently, connected miscellaneous petitions are closed.

(S.S.S.R.J.,) (N.S.J.,)
13.02.2024

Index : Yes / No
Speaking order: Yes/No
pvs



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To

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