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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2024

CORAM:

**THE HON'BLE MR.JUSTICE S.S.SUNDAR
and
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR**

**W.P.No.1665 of 2024
and W.M.P.No.1702 of 2024**

K.Babu

...Petitioner

vs.

1.The Chairman,
State Level Scrutiny Committee-III,
Additional Secretary to the Government,
Adi-Dravidar and Tribal Welfare Department,
Namakkal Kavingnar Maligai,
Secretariat,
Chennai – 600 009.

2.The Director,
Census Operations,
Ministry of Home Affairs,
Government of India,
Rajaji Bhavan, E Wing,
IIIrd Floor,
Besant Nagar,
Chennai – 600 090.

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the records in Proceedings No.6326243/CV6/2023 dated 04.01.2024, on the file of the 1st respondent and quash the same as illegal.



W.P.No.1665 of 2024

For Petitioner : Mr.M.Radhakrishnan

For Respondents : Mr.R.Vigneswaran for R1
Government Advocate

Mr.Prasad Vijayakumar
Senior Panel Counsel for R2

ORDER

(Order of the Court was made by N.Senthilkumar, J.)

This writ petition is filed for issuance of writ of certiorari to quash the Proceedings dated 04.01.2024 passed in No.6326243/CV6/2023 by the first respondent.

2. The brief facts necessary to dispose of the case are as follows:

The writ petitioner was appointed as a loader in the year 1998 with the second respondent. According to the writ petitioner, he belongs to Hindu Kuruman Schedule Tribe Community. However, his appointment was purely under the General Category and not based on the communal reservation. Ever since the employment of the petitioner with the second respondent, the petitioner possesses an unblemished service record. Petitioner obtained a community certificate. Petitioner's case is that for no valid reasons or any requirement, the second respondent wanted verification of the genuineness of his community certificate and the first respondent has now by impugned order cancelled the community



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certificate issued to the petitioner by holding that petitioner does not belong to 'Hindu Kuruman'. Challenging the same, the above writ petition is filed.

2 (a) The first contention of the petitioner is the inordinate delay on the part of the second respondent/ employer in forwarding the community certificate for verification after two decades. In the absence of any explanation for the delay in sending the community certificate for verification, the said exercise is unreasonable and lacks bonafides especially when then petitioner did not secure employment availing the benefit of reservation.

2 (b) The second contention raised by the petitioner is that he was not given an opportunity before passing the order as to the genuineness of the community certificate by the first respondent herein.

3. The second respondent has filed a counter affidavit and submitted that the petitioner was appointed as a loader under the Scheduled Tribe Category on 21.01.1998. The petitioner had submitted his community certificates bearing No.202818 dated 26.08.1988 issued by the Tahsildar, Egmore -Nungambakkam and Certificate No.2643148



(R.DIS.(PA)/27192/93 dated 04.05.1993 issued by the Additional District Magistrate & Personal Assistant (General) to the Collector of Madras in order to secure his employment.

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4. The second respondent has received a communication from the Office of the Registrar General and Census Commissioner of India vide O.M.No.13/9/2004-Ad(III) dated 07.06.2005. Based on the above Office Memorandum and Extant Rules, the second respondent vide letter No.DCO-TN.Lr.No.12013/2005-Admn. dated 08.06.2005 had communicated to the District Collector, Chennai to verify the authenticity of the community certificate No.2643148 (R.DIS.(PA)27192/93 dated 04.05.1993.

5. The Chennai District Vigilance Committee conducted an enquiry and recommended for the cancellation of the community certificate issued to the petitioner for lack of bonafide through its Letter No.U8/38471/05 dated 30.01.2006 and forwarded the same to the first respondent.

6. The second respondent vide its Office Order No.C/14013/55/2022-Admin, dated 27.05.2022 and 17.06.2022, placed



the petitioner under suspension with effect from 27.05.2022 as per the Central Civil Services (Classification, Control and Appeal), Rules, 1965.

However, the Review Committee vide No.30019/2/2011/vig, dt. 24.08.2022, after taking into account all the facts and circumstances of the case recommended for revocation of suspension of the petitioner.

7. The Central Administrative Tribunal directed the second respondent to keep the disciplinary proceedings against the petitioner in abeyance vide order in O.A.No.310/00492/2022 dated 23.08.2022, which reads as follows:

“3.Learned counsel for applicant submits that the applicant has been issued with the ST certificate and the community status verification is pending with the State Level Scrutiny Committee which is yet to submit its report. In the meantime, the respondents have initiated departmental proceedings against the applicant based on the District Vigilance Committee report. It is submitted that the District Vigilance Committee report cannot be acted upon to the detriment of the applicant when the matter is pending with the



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State Level Scrutiny Committee.

4.Learned counsel for respondents vehemently opposes the grant of interim relief sought by the applicant.

5.In view of the above submission and since the balance of convenience is in favour of the applicant, we deem it appropriate to direct the respondents to keep the disciplinary proceedings in respect of the applicant in abeyance till the next date of hearing.

6.List on 12.09.2022”

8. The first respondent decided to finalize the genuineness of the community certificate of the petitioner after conducting a personal enquiry with the petitioner and directed the petitioner to appear before the Committee on 22.12.2022 along with all the documents and evidence in original to substantiate that the petitioner belongs to Hindu Kuruman Scheduled Tribe Community. The petitioner did not appear for the enquiry. On the other hand, the petitioner requested six months time for submitting the documents. The first respondent again issued summons for the appearance of the petitioner before the Committee on 31.03.2023



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along with all the original documents and evidence. On the aforesaid date, the petitioner neither appeared nor sent any representation stating that he could not participate in the enquiry. However, the first respondent decided to provide one more opportunity and directed him to appear before the Committee on 02.08.2023. Even on that date, the petitioner did not appear or forwarded any representation to substantiate his claim.

9. The petitioner filed a writ petition in W.P.No.11913 of 2023 before the High Court on 19.04.2023 stating that he was not selected under the Scheduled Tribe Community but appointed under the General Category and prayed that the respondents shall not conduct enquiry. The Hon'ble High Court passed the following order :

“ 4. In the light of the above said submission, the respondents are directed to look into the fact that the petitioner is under the ST Community category or not and pass appropriate order, within a period of three weeks from the date of receipt of a copy of this order. The petitioner is also directed to participate in the enquiry conducted by the respondents.”

10. Pursuant to the above order passed by this Court, the petitioner



furnished certain documents which were not sufficient to dispose of the case as per the orders of this Court. Vide Office Memorandum No.4/2/7/2017-AD(Part) dated 27.10.2023, the petitioner was directed to appear for enquiry in person on 30.10.2023 at 11.00 a.m.

11. As the petitioner was not available from 30.10.2023 to 03.11.2023, he was called for a personal enquiry on 06.11.2023 to substantiate that he belongs to Scheduled Tribe community and the petitioner appeared before the Committee. The first respondent after holding an enquiry, vide its proceedings No.14338/CV6/2914024 dated 15.11.2023 came to the conclusion that the certificate submitted by the petitioner as Hindu Kuruman is not genuine and cancelled the community certificate issued in favour of the petitioner.

12. The petitioner had challenged the aforesaid order of the first respondent in W.P.No.34440 of 2023. This Court was pleased to pass an order on 15.12.2023 which reads as follows:

...it would be suffice if an opportunity is given to the petitioner to prove his case. Accordingly, the impugned order dated 15.11.2023 is hereby set aside. The 1st respondent



is directed to conduct a fresh enquiry on 21.12.2023 and the petitioner is directed to participate in the enquiry to be conducted on 21.12.2023 without fail. The respondent is directed to pass appropriate orders afresh after hearing the petitioner, within a period of two weeks thereafter.

13. The first respondent has conducted a fresh enquiry on 21.12.2023 by giving an opportunity to the petitioner pursuant to the aforesaid order. The second respondent also appeared before the first respondent during enquiry. The first respondent vide its proceedings No.6326243/CV6/2023 dated 04.01.2024 cancelled the community certificate issued in favour of the petitioner and further directed the District Collector to confiscate the community certificate issued to the petitioner as Hindu Kuruman Scheduled Tribe community and further recommended to take appropriate action as per law.

14. The second respondent is the employer who had come to the conclusion that the petitioner was ineligible for the initial recruitment.

15. It is necessary to extract relevant paragraph of the DOPT OM



vide No.11012/7/19-Estt. (A) dated 19.05.1993 & No.36011/1/2012-Estt.

(Res), dated 10.01.2013 which reads as follows:

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“Wherever it is found that a Government servant who was not qualified or eligible in terms of the recruitment rules etc., for initial recruitment in service or had furnished false information or produced a false certificate in order to secure appointment, he should not be retained in service.”

16. Based on the Office Memorandum, the petitioner was imposed with a penalty of dismissal from service as per Rule 11(ix) of Central Civil Services (Classification, Control and Appeal), Rules, 1965 vide proceedings F.No.4/2/7/2017-Admn(Part) of the second respondent dated 05.01.2024.

17. The first respondent filed a counter affidavit stating that the petitioner was given ample opportunities. The relevant paragraphs of the counter are extracted hereunder:

15.It is respectfully submitted that the State



Level Scrutiny Committee-III has scrutinized the reports and documents submitted by the competent authorities and the reply of the individual to the show cause notice issued by the Director, Tribal Welfare, Chennai and observed that the reports and documentary evidences submitted by the competent authorities are not in favour of the individual's Kurumans ST Community claim. Further, the Committee has observed that the report of the Anthropologist with regard to individual's social status is not conclusive and are found to be ambiguous with regard to his own report submitted by him. Therefore, the State Level Scrutiny Committee has decided to finalize the 'genuinity' of the individual's Community Certificate after conducting personal hearing with the individual. Accordingly, the individual was called for to appear before the committee on 22.12.2022 along with the documentary evidences, in original, to substantiate his Hindu "Kurumans" Community



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Certificate.

16.The individual, on receipt of the aforesaid enquiry summon, vide his letter dated 21.12.2022 has requested to the Additional Secretary to Government, Adi-Dravidar and Tribal Welfare Department, Chennai that based on his request to the Directorate of Tribal Welfare made in the year 2014, requesting to issue of Scheduled Tribe Community Certificate to his children. The Committee has called for the individual for verifying his community certificate. He further communicated that the original documents pertaining to his father and grandfather has been destroyed in the massive flood occurred during the year 2015 and hence requested to grant six months time to collect the documents pertaining to his ancestors as referred in the enquiry summon. Further the individual has also mentioned that his cases, viz., O.A.No.492 of 2022 and O.A.871/2019 and M.A.381/2021 are pending before the Court and



they are under process.

17.It is respectfully submitted that the individual has not turned up for the enquiry scheduled on 22.12.2022, the State Level Scrutiny Committee-III has granted another opportunity to the individual to substantiate his Scheduled Tribe Community Certificate and accordingly, the Committee has again issued enquiry summon to the individual with the instruction to appear before the Committee on 31.03.2023 along with the documentary evidences, in original, to substantiate his Hindu “Kurumans” Community Certificates. However, the individual has again neither appeared before the Committee nor sent his representation to substantiate his community certificate.

18.The State Level Scrutiny Committee-III has again called for the individual to appear before the committee on 02.08.2023 along with the documentary evidences, in original, to



substantiate his community certificate. However, the individual has again failed to participate in the enquiry on the aforesaid date.

18. The petitioner's primary contention is that his employment was under the General Category and not under the Scheduled Tribe Category. However, the petitioner is not able to substantiate his version of his appointment under the General Category.

19. Counter affidavit filed by the second respondent/employer would categorically show that the petitioner was appointed as a loader under the Scheduled Tribe Category by age relaxation. Ever since his employment under the Scheduled Tribe Category, the petitioner at several instances has not allowed the second respondent to verify the genuineness of his community certificate.

20. It is incumbent on the part of the employer to verify the community status of the employee. The Hon'ble Supreme Court in ***Kumari Madhuri Patil and Another vs. Additional Commissioner, Tribal Development and Others*** reported in (1994) 6 SCC 241 has given a direction that the genuineness of the community certificate has to be



verified. The relevant paragraph of the aforesaid judgment is extracted hereunder:

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13. The admission wrongly gained or appointment wrongly obtained on the basis of false social status certificate necessarily has the effect of depriving the genuine Scheduled Castes or Scheduled Tribes or OBC candidates as enjoined in the Constitution of the benefits conferred on them by the Constitution. The genuine candidates are also denied admission to educational institutions or appointments to office or posts under a State for want of social status certificate. The ineligible or spurious persons who falsely gained entry resort to dilatory tactics and create hurdles in completion of the inquiries by the Scrutiny Committee. It is true that the applications for admission to educational institutions are generally made by a parent, since on that date many a time the student may be a minor. It is the parent or the guardian who may play fraud claiming false status certificate. It is, therefore,



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necessary that the certificates issued are scrutinised at the earliest and with utmost expedition and promptitude. For that purpose, it is necessary to streamline the procedure for the issuance of social status certificates, their scrutiny and their approval, which may be the following:

1. The application for grant of social status certificate shall be made to the Revenue Sub-Divisional Officer and Deputy Collector or Deputy Commissioner and the certificate shall be issued by such officer rather than at the Officer, Taluk or Mandal level.

2. The parent, guardian or the candidate, as the case may be, shall file an affidavit duly sworn and attested by a competent gazetted officer or non-gazetted officer with particulars of castes and sub-castes, tribe, tribal community, parts or groups of tribes or tribal communities, the place from which he originally hails from and other particulars as may be prescribed by the Directorate concerned.



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3. Application for verification of the caste certificate by the Scrutiny Committee shall be filed at least six months in advance before seeking admission into educational institution or an appointment to a post.

4. All the State Governments shall constitute a Committee of three officers, namely, (I) an Additional or Joint Secretary or any officer higher in rank of the Director of the department concerned, (II) the Director, Social Welfare/Tribal Welfare/Backward Class Welfare, as the case may be, and (III) in the case of Scheduled Castes another officer who has intimate knowledge in the verification and issuance of the social status certificates. In the case of the Scheduled Tribes, the Research Officer who has intimate knowledge in identifying the tribes, tribal communities, parts of or groups of tribes or tribal communities.

5. Each Directorate should constitute a vigilance cell consisting of Senior Deputy



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Superintendent of Police in over-all charge and such number of Police Inspectors to investigate into the social status claims. The Inspector would go to the local place of residence and original place from which the candidate hails and usually resides or in case of migration to the town or city, the place from which he originally hailed from. The vigilance officer should personally verify and collect all the facts of the social status claimed by the candidate or the parent or guardian, as the case may be. He should also examine the school records, birth registration, if any. He should also examine the parent, guardian or the candidate in relation to their caste etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all particulars as envisaged in the pro forma, in particular, of the Scheduled Tribes relating to their peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death



ceremonies, method of burial of dead bodies etc. by the castes or tribes or tribal communities concerned etc.

6. The Director concerned, on receipt of the report from the vigilance officer if he found the claim for social status to be “not genuine” or ‘doubtful’ or spurious or falsely or wrongly claimed, the Director concerned should issue show-cause notice supplying a copy of the report of the vigilance officer to the candidate by a registered post with acknowledgement due or through the head of the educational institution concerned in which the candidate is studying or employed. The notice should indicate that the representation or reply, if any, would be made within two weeks from the date of the receipt of the notice and in no case on request not more than 30 days from the date of the receipt of the notice. In case, the candidate seeks for an opportunity of hearing and claims an inquiry to be made in that behalf, the Director on receipt of such



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representation/reply shall convene the committee and the Joint/Additional Secretary as Chairperson who shall give reasonable opportunity to the candidate/parent/guardian to adduce all evidence in support of their claim. A public notice by beat of drum or any other convenient mode may be published in the village or locality and if any person or association opposes such a claim, an opportunity to adduce evidence may be given to him/it. After giving such opportunity either in person or through counsel, the Committee may make such inquiry as it deems expedient and consider the claims vis-à-vis the objections raised by the candidate or opponent and pass an appropriate order with brief reasons in support thereof.

7. In case the report is in favour of the candidate and found to be genuine and true, no further action need be taken except where the report or the particulars given are procured or found to be false or fraudulently obtained and in



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the latter event the same procedure as is envisaged in para 6 be followed.

8. Notice contemplated in para 6 should be issued to the parents/guardian also in case candidate is minor to appear before the Committee with all evidence in his or their support of the claim for the social status certificates.

9. The inquiry should be completed as expeditiously as possible preferably by day-to-day proceedings within such period not exceeding two months. If after inquiry, the Caste Scrutiny Committee finds the claim to be false or spurious, they should pass an order cancelling the certificate issued and confiscate the same. It should communicate within one month from the date of the conclusion of the proceedings the result of enquiry to the parent/guardian and the applicant.

10. In case of any delay in finalising the proceedings, and in the meanwhile the last date



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for admission into an educational institution or appointment to an officer post, is getting expired, the candidate be admitted by the Principal or such other authority competent in that behalf or appointed on the basis of the social status certificate already issued or an affidavit duly sworn by the parent/guardian/candidate before the competent officer or non-official and such admission or appointment should be only provisional, subject to the result of the inquiry by the Scrutiny Committee.

11. The order passed by the Committee shall be final and conclusive only subject to the proceedings under Article 226 of the Constitution.

12. No suit or other proceedings before any other authority should lie.

13. The High Court would dispose of these cases as expeditiously as possible within a period of three months. In case, as per its procedure, the writ petition/miscellaneous petition/matter is disposed of by a Single Judge, then no further



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appeal would lie against that order to the Division Bench but subject to special leave under Article 136.

14. In case, the certificate obtained or social status claimed is found to be false, the parent/guardian/the candidate should be prosecuted for making false claim. If the prosecution ends in a conviction and sentence of the accused, it could be regarded as an offence involving moral turpitude, disqualification for elective posts or offices under the State or the Union or elections to any local body, legislature or Parliament.

15. As soon as the finding is recorded by the Scrutiny Committee holding that the certificate obtained was false, on its cancellation and confiscation simultaneously, it should be communicated to the educational institution concerned or the appointing authority by registered post with acknowledgement due with a request to cancel the admission or the



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appointment. The Principal etc. of the educational institution responsible for making the admission or the appointing authority, should cancel the admission/appointment without any further notice to the candidate and debar the candidate from further study or continue in office in a post.

Since the petitioner's employment is only through the Scheduled Tribe Category, it is mandatory on the part of the petitioner to establish that he belongs to Hindu Kuruman Scheduled Tribe community.

21. Now, we shall examine the order passed by the first respondent. A detailed order has been passed by the first respondent after considering the following materials:

S.No.	Reference
1	Letter from the District Collector, Chennai C.No.P5/38471/2008, dated 04.09.2014.
2	Government Letter No.14338/CV4/2014-2, Dated 03.03.2015.
3	Representation from the individual, Thiru.K.Babu addressed to Secretary to Government, Adi Dravidar and Tribal Welfare Department, Chennai dated 12.03.2015.
4	From the Director, Census Operations, Ministry of Home Affairs, Government of India, Chennai Letter F.No.412/7/2017-AD(Part), dated 11.10.2017.
5	Government Letter No.14338/CV/2014-6, Adi Dravidar and Tribal Welfare Department, dated 28.12.2018.
6	The Director, Tribal Welfare, Chennai Letter



S.No.	Reference
	Na.Ka.No.TD/B2/542/2016, dated 02.12.2022.
7	Government Letter No.14338/CV6/2014, Adi Dravidar and Tribal Welfare Department, dated 07.07.2023.
8	Orders of the Hon'ble High Court dated 15.12.2023 in W.P.No.34440 of 2023 and W.M.P.Nos.34357 & 34359 of 2023.
9	Government Letter No.E6326243/CV6/2023-1, Adi Dravidar and Tribal Welfare Department, dated 18.12.2023.
10	Government Letter No.E6326243/CV6/2023-2, Adi Dravidar and Tribal Welfare Department, dated 20.12.2023.

The relevant paragraphs of the order passed by the first respondent are extracted hereunder:

24) In view of the aforesaid guidelines, the documents such as school records of the individual as well as his siblings, copy of the Service register (1st page), in respect of his father, Thiru.V.Kuppuswamy S/o. Venkataswamy; Certificates obtained from public representatives, Caste Associations; Bonafide Certificates issued from the officials of various Government Organisations, etc., bears no probative value and hence cannot be taken as 'relevant' and 'valid' documents in determining the social status of the individual, Thiru.K.Babu S/o. Kuppusamy.



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36) *Further, while scrutinizing the available documents, it is observed that there is no evidence of record available with regard to issuance of Community Certificate (Certificate No.202818 dated 26.08.1988) from the office of Tahsildar, Egmore-Nungambakkam Taluk. Hence the 'genuinity' over the issuance of aforesaid Community Certificate is under cloud.*

39) *From the available records, it is observed that the individual has played the delayed tactics with regard to verification of his Community Certificates by the competent authorities, viz., Vigilance Cell and State Level Scrutiny Committee by sending representations to the verifying authorities vide his letters dated one day prior to the date of the enquiry scheduled, in the guise of seeking further time to submit the relevant documents to the Government which clearly proves the 'wilful non-cooperation' and the dilatory tactics of the individual to evade the enquiry initiated by the Government.*



43) Further, the Member, State Level Scrutiny Committee III, based on the depositions made by the individual, Thiru.K.Babu before the Committee on 21.12.2023 has reported as follows:-

“I enquired about the individual Thiru.K.Babu S/o.Kuppusamy, residing at Chennai in the chambers of Chairman, State Level Scrutiny Committee-III. The basic objective of the enquiry is to generate more information about the cultural aspects at the empirical level. The individual has not clearly established the cultural traits of the community from the interpretation of his answer. The basic ethnographic data which includes origin, Family, Marriage, Kinship, Religion and Rituals, Language, Food Habits, Life cycle ceremonies, Death ceremonies, etc which could not be substantiated. So I conclude that the individual, Thiru.K.Babu S/o.Kuppusamy does not belong to the “Kurumans” Scheduled Tribe Community.



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46) *The State Level Scrutiny Committee-III* has observed that the three member Chennai District Vigilance Committee, Chennai has conducted personal hearing with the individual, *Thiru.V.Babu S/o.Kuppuswamy* as well as with his parents on 27.01.2006, and based on their depositions and documentary evidences placed before the Committee, the Chennai District Level Vigilance Committee has concluded that the individual, ***Thiru.K.Babu S/o.Kuppuswamy*** does not belong to Hindu Kurumans Scheduled Tribe Community. Further, the Committee has concluded that the Hindu-Kurumans Scheduled Tribe Community Certificate (Certificate No.202818 dated 26.08.1988) issued from the office of Tahsildar, Egmore-Nungambakkam, Madras and the Hindu-Kurumans Community Certificate issued by the Personal Assistant (General) to the Collector of Chennai vide R.Dis.U4.27192/93 dated 04.05.1993 are considered to be as “Not Genuine” and hence



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*decided to refer the aforesaid Community
Certificates along with connected records to the
State Level Scrutiny Committee for its
cancellation.*

22. The first respondent has thoroughly conducted an enquiry with regard to the documents filed by the petitioner. Apart from the community certificate of the petitioner and his relatives, school records of the petitioner were all examined by the Committee before passing a detailed order which would only show that the petitioner has not established his case.

23. The first respondent had also considered the following documents:

(a) Report of the Tahsildar, Egmore – Nungambakkam dated 13.03.1993.

(b) Report of the District Adi Dravidar and Tribal Welfare Officer dated 01.04.2022.

(c) Report of the Tahsildar, Egmore dated 22.04.2022.

(d) Report of the Tahsildar, Aminjikarai dated 19.09.2022.

(e) Proceedings of the District Level Vigilance Committee.



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(f) Report of the District Vigilance Cell dated 10.10.2022.

(g) Report of the Deputy Superintendent of Police of Scheduled Caste & Scheduled Tribe Vigilance Cell dated 12.10.2022 and

(f) The documents submitted by the employer i.e

(i) Appointment Order

(ii) Recruitment Roster Certificate

(iii) Reservation Roster

(iv) Application for Acceptance

(v) Application for Change of Accommodation

(vi) Offer of Allotment of General Pool Residential Accommodation.

(vii) Report of the Deputy Director of District Employment and Career Guidance Centre dated 12.12.2023.

The first respondent after conducting a laborious enquiry has come to the conclusion that the petitioner has not proved his case.

24. At this juncture, the learned counsel for the petitioner would contend that the reply of the petitioner dated 20.11.2022 and the reasons given in the reply were not considered by the first respondent.

25. On perusal of the reply dated 20.11.2022, it is noted that the



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aforesaid reply did not contain any new point for consideration and the first respondent has considered all the relevant factors. The laborious exercise carried out by the first respondent would categorically show that not even a piece of evidence was available to substantiate that the petitioner belonged to Hindu Kuruman Scheduled Tribe community. This exercise was not done by the first respondent just like a formality but with utmost responsibility and as per the directions of this Court in W.P.No.11913 of 2023 & W.P.No.34440 of 2023.

26. Learned counsel for the petitioner relied upon a judgment of the Hon'ble Supreme Court in ***Civil Appeal No.5160 of 2010*** in ***J. Chitra vs. District Collector and Chairman State Level Vigilance Committee, Tamil Nadu***. The relevant paragraph of the aforesaid judgment is extracted hereunder:

8.In the instant case, an inquiry was conducted by the District Level Vigilance Committee which has upheld the community certificate in favour of the Appellant. The decision of the District Level Vigilance Committee in the year 1999 has not been challenged in any forum. The recognition of the community certificate issued in favour of the Appellant by the District Vigilance Committee having become



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final, the State Level Scrutiny Committee did not have jurisdiction to reopen the matter and remand for fresh consideration by the District Level Vigilance Committee. The guidelines issued by G.O.108 dated 12.09.2007 do not permit the State Level Scrutiny Committee to reopen cases which have become final. The purpose of verification of caste certificates by Scrutiny Committees is to avoid false and bogus claims. Repeated inquiries for verification of caste certificates would be detrimental to the members of Scheduled Castes and Scheduled Tribes. Reopening of inquiry into caste certificates can be only in case they are vitiated by fraud or when they were issued without proper inquiry.

The aforesaid judgment is not applicable to the case in hand as the District Level Vigilance Committee after detailed enquiry came to the conclusion that the community certificate of the petitioner is not genuine and recommended for cancellation of community certificate by forwarding the same to the first respondent/State Level Vigilance Committee. Therefore, the first respondent has not committed any error apparent on the face of record.

27. The first respondent has filed a typed set of papers in which an application filed by the petitioner for residential accommodation is



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enclosed. In the said application, the petitioner has disclosed that he falls under the Scheduled Tribe Category and has also duly signed the application. That apart, the second respondent in its order dated 17.11.2013 stated as follows:

Whereas after going through available records in the Office of Directorate of Census Operations, Tamil Nadu, it is found that Shri.K.Babu, MTS was appointed under ST Category to the post of Loader. This appointment was done on 21.01.1998 FN (Ref.4). The age limit for this post was 25 years and 5 years relaxed age limit for ST Community was 30 years. Shri.K.Babu, MTS, date of birth as per School Leaving Certificate was 21.05.1971 (Ref.5). Hence, Shri.K.Babu, MTS was 26 years 8 months age as on date of joining. This proves that he availed age relaxation earmarked for ST Candidates while in initial appointment.

...Whereas K.Babu, has claimed that as per Employment Exchange Card No.CHU1988M00009376 (Ref.10), it is written as



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General. This aspect was cross-checked with Employment Exchange Department...

Employment Exchange, Government of Tamil Nadu has communicated to Directorate of Census Operations, Tamil Nadu vide their letter No.A3/2881/2022, dated 08.08.2022 (Ref.11) and confirmed and enclosed of the book record X-63 containing the name of Shri K.Babu in which category mentioned as ST with Sr.No.9376. This important fact also prove that Shri K.Babu registered himself as a ST with registration number CHUI988M00009376 in Employment Exchange, Government of Tamil Nadu.

The above documents would show that the petitioner's initial appointment was under the category of Scheduled Tribe and he has also availed residential accommodation earmarked for Scheduled Tribe category.

28. The petitioner has consistently made a plea before this Court that his employment was originally under the General Category and not



under the Reserved Category. However, the documents at the initial stage of his appointment, the application submitted by the petitioner for residential accommodation would show that he has applied it under the Schedule Tribe Category and the employment was given to him by giving age relaxation which exclusively earmarked for the people who belonged to the Reserved Category (Scheduled Caste/Schedule Tribe).

29. It is for the employer to verify the genuineness of the community certificate and the delay in forwarding the community certificate for verification is a subject matter of the employer which cannot be questioned by the petitioner in the absence of any prejudice established by the petitioner.

30. The first respondent has given ample opportunities to the petitioner, however, the petitioner has miserably failed to establish his claim. The petitioner had only filed repeated writ petitions to further delay the process of verification and at no point of time cooperated with the first respondent or the Anthropologist and the Vigilance Cell to form a genuine opinion in the process of enquiry.



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31. The petitioner has only scuttled the process in the verification procedure and the documents furnished by the petitioner to substantiate the genuineness of the community certificate was not satisfying is borne out from the records produced by the Tahsildar, educational certificate of the petitioner and other relatives of the petitioner.

32. The petitioner has availed this employment under the Schedule Tribe Category by producing a community certificate which is not genuine. This is nothing but snatching away an employment opportunity earmarked for a person who belonged to Scheduled Tribe community. Though the petitioner almost completed his service, his employment was terminated on the ground that the community certificate was not genuine and that subject matter is challenged by the petitioner in a parallel writ petition as stated in his affidavit. This Court does not want to express any view on the merits of the writ petition challenging the termination order and O.A.No.310/00492/2022 pending before the Central Administrative Tribunal.

33. The case of the petitioner is a classic example of a person who has availed the employment by producing a false certificate and completed his service for more than 26 years under the Central



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Government and by availing all other attendant benefits which he is actually not entitled to. The community certificate is not only a certificate for an individual but it goes to the generation after generation, through which their blood relatives will be entitled for reservation under the said category. Therefore, it is mandatory on the part of the employer to take immediate efforts to verify the community certificate after the employment of a person under the category of Scheduled Tribe or Scheduled Caste. Such a failure on the part of the second respondent/employer or any delay is not only an onslaught on the constitution but also deprives a genuine person getting his education and employment opportunity under the bonafide community he belongs.

34. The order passed by the first respondent dated 04.01.2024 need not be interfered with on any grounds as the first respondent has conducted enquiry by taking note of all the factors submitted by the petitioner as well as by the second respondent and the documents produced by the Tahsildar, Vigilance Deputy Superintendent of Police, School records and depositions of relatives of the petitioner etc.

35. In view of the above, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.



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Index: yes/no
Speaking order:yes/no
Neutral Citation:yes/no
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W.P.No.1665 of 2024

(S.S.S.R.,J.) (N.S.,J.)
11.07.2024



W.P.No.1665 of 2024

To

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1. The Chairman,
State Level Scrutiny Committee-III,
Additional Secretary to the Government,
Adi-Dravidar and Tribal Welfare Department,
Namakkal Kavingnar Maligai,
Secretariat,
Chennai – 600 009.

2. The Director,
Census Operations,
Ministry of Home Affairs,
Government of India,
Rajaji Bhavan, E Wing,
IIIrd Floor,
Besant Nagar,
Chennai – 600 090.



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W.P.No.1665 of 2024

S.S.SUNDAR, J.
and
N.SENTHILKUMAR, J.

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W.P.No.1665 of 2024

11.07.2024