



W.P.No.8102 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.8102 of 2021

and

W.M.P.Nos.8661 & 8665 of 2021

K.Sridharan

... Petitioner

Vs.

- 1.The State Level Scrutiny Committee II,
Adi Dravidar and Tribal Welfare (CV-4) Department,
Secretariat, Fort St. George,
Chennai – 600 009.
- 2.The Director of Tribal Welfare Department,
Chepauk, Chennai.
- 3.The Deputy Superintendent of Police,
SC/ST Vigilance Cell,
Madurai Region, Madurai (i/c)
Salem Region.



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4. The Divisional Personnel Officer,
Divisional Office,
Personnel Branch,
Southern Railway,
Salem – 636 005.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records of the 1st respondent's impugned proceedings in No.14963/CV-4(2)/2020-2 dated 12.01.2021 (received on 23.03.2021) and quash the same in the light of the letter dated 04.04.2019 vide No.6072/CV-4(2)/2017-5.

For Petitioner	:	Mr.N.Naganathan
For R1 to R3	:	Mrs.V.Yamuna Devi Special Government Pleader
For R4	:	Mr.P.T.Ramkumar Standing Counsel

ORDER

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

This writ petition is filed for issuance of a Writ of Certiorari to quash the impugned order passed by the 1st respondent, namely, the State Level



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Scrutiny Committee II, Adi Dravidar and Tribal Welfare (CV-4) Department,

in the light of the letter dated 04.04.2019.

2. Brief facts that are necessary for the disposal of this writ petition are as follows :

2.1. The petitioner is a native of Olagadam Village, Bhavani Taluk, Coimbatore District, presently Erode District. The petitioner was appointed as Assistant Station Master under the reserved quota in January, 1980 in Southern Railways. The petitioner also was granted a few promotions and attained superannuation on 31.05.2017 as Station Master. The fact that the petitioner secured employment by showing his community status that he belongs to Scheduled Tribe Community, is not in dispute.

2.2. It appears that the employer/4th respondent, had sent communications for verification of the community status of the petitioner long before the retirement of the petitioner. It is strange to note that the petitioner avoided the enquiry at every stage by not responding to the respondents including the State Level Scrutiny Committee. The petitioner refused to participate in the enquiry saying that the enquiry regarding his



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community status had already been decided and the employer, namely the 4th respondent, had dropped the idea of verification. It is therefore, the State Level Scrutiny Committee, the 1st respondent herein, left with no other option, proceeded further with the enquiry and ultimately, found that the community claim of the petitioner as Hindu Kondareddis is not genuine.

2.3.It is to be noted that the order refers to the enquiry conducted by Anthropologist associated with District Vigilance Cell in the residential area of the petitioner. Despite several opportunities by the State Level Scrutiny Committee to appear for enquiry, the petitioner was absent and did not cooperate for the enquiry. It was therefore, by referring to the documents and the report of the Vigilance Committee as well as the Anthropologist, the State Level Scrutiny Committee directed the District Collector, Erode, to confiscate the ST Community Certificate issued to the petitioner and also recommended the employer, namely the 4th respondent, to take stringent action against the individual for obtaining bogus Certificate. This order is put to challenge before this Court in this writ petition.

3.The impugned order is challenged mainly on the following grounds:



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- i. The respondents failed to consider the fact that the Community Certificate issued by the then Tahsildar was after thorough scrutiny and spot enquiry and therefore, the enquiry by State Level Scrutiny Committee has no legal force, unless the Certificate issued to the petitioner was found not genuine.
- ii. The 3rd respondent conducted enquiry without the Community Certificate issued to the petitioner and therefore, the impugned order is vitiated.
- iii. The 2nd respondent, namely, the Director of Tribal Welfare Department, failed to issue Show Cause Notice and furnish a copy of the report of the 3rd respondent/Vigilance Cell along with other documents.
- iv. The State Level Scrutiny Committee had already returned the files for want of Community Certificate as early as on 04.04.2019 to the 4th respondent. Without the Community Certificate issued to the petitioner, at the first instance, the 1st respondent has no jurisdiction or authority to entertain an enquiry as regards the genuineness of the Community Certificate issued to the petitioner and the whole enquiry



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is therefore, unsustainable.

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v. The order of the 1st respondent is against the principles of natural justice, inasmuch as the report of the 3rd respondent is not furnished to the petitioner.

vi. The employer failed to produce the Community Certificate of the petitioner before the 1st respondent and therefore, the respondents 1 to 3 have committed serious injustice to the petitioner.

vii. When a Community Certificate is issued by the competent authority to a person, the burden does not lie on the individual to prove his community status. It is for the officials to disprove the Certificate if it is obtained by fraud or misrepresentation.

4. The 1st respondent have filed a detailed counter affidavit. From the counter affidavit, it is seen that, at the request of the Southern Railways, the employer of the petitioner, enquiry was commenced regarding verification of the genuineness of the ST Community Certificate issued to the petitioner. The case was referred to the Director of Tribal Welfare and Deputy Superintendent of Police, SC/ST Vigilance Cell, Salem Region, for



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verification of the genuineness of the Certificate. In the report submitted by the Deputy Superintendent of Police (Vigilance Cell), dated 01.08.2017, it is concluded that the Kondareddis ST Community Certificate issued by the Tahsildar, Bhavani Taluk, to the petitioner, is not genuine. Therefore, the State Level Scrutiny Committee-II, directed the District Collector to confiscate the Hindu Kondareddis ST Community Certificate issued to the petitioner. There was a recommendation to the 4th respondent/employer to take stringent action against the petitioner.

5.It is contended on behalf of the respondents that verification of the community status of the petitioner was done following the Rules and procedures, not only based on the judgment of the Hon'ble Supreme Court in the case of *Kumari Madhuri Patil and another v. Additional Commissioner, Tribal Development and others* reported in (1994) 6 SCC 241, but also the Government Order issuing guidelines on the understanding of the judgment of the Hon'ble Supreme Court and the subsequent judgments giving guidelines as to the nature and manner of enquiry.



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6. In the present case, the report of the Superintendent of Police assumes more importance, as the petitioner did not bother to participate in the enquiry on the premise that the State Level Scrutiny Committee had already expressed its inability earlier to hold enquiry without the Community Certificate issued to the petitioner. On the request for verification of the genuineness of the Community Certificate issued to the petitioner, the State Level Scrutiny Committee intimated not only the employer, but also the petitioner. The State Level Scrutiny Committee received an enclosure from the employer, namely the 4th respondent. Though the petitioner was afforded a few opportunities to attend the State Level Scrutiny Committee's enquiry, at the first instance, the petitioner did not attend the enquiry at any point of time and he maintained that no proceedings can be initiated for verification of his community status. From the reading of the Impugned Order, the 1st respondent appears to have applied its mind to the relevant facts and the documents to hold against the petitioner regarding his claim that he belongs to Hindu Kondareddis



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7.In the counter affidavit filed by the 4th respondent, it is contended that the Community Certificate that was produced by the petitioner was returned to the petitioner after verifying the documents and other entries. Since the Community Certificate was not retained by the employer, namely the 4th respondent, a communication was sent to the petitioner to the effect that the Community Certificate was not retained by the employer and not available in the office of the petitioner's employer. It is on the complaint received from the Divisional Secretary, Palakkad, in the year 2007, as per letter dated 18.06.2007, the petitioner was asked to submit original Community Certificate issued by the competent authority.

8.Despite the State Level Scrutiny Committee meticulously followed the procedure and principles of natural justice by giving opportunity to the petitioner on several occasions, the petitioner did not respond to any of the notices and stuck his stand that the enquiry is wholly illegal. Having taken a stand that the enquiry commenced by the 1st respondent is not in



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accordance with law and is without jurisdiction, the petitioner who refused to take part in the verification process cannot now take a stand that the petitioner was not given an opportunity to appear for enquiry.

9.The petitioner responded to the Show Cause Notice issued by the Vigilance Cell, by his letter dated 23.11.2020, in the following lines :

“With reference to the above, I humbly submitting the following few lines for your kind consideration please. In my representation dt.30.12.2017, I requested the Principal Secretary, Adi Dravidar & Tribal Welfare Department to return my case to my employer since the CVC guidelines and Rly PB Circular No.100/2016 were not followed in my case. Accordingly, the Principal Secretary Thiru.Otem Dai, IAS, Chairman, SLSC vide his letter No.6072/CV-4(2)/2017-5 dt. 04.04.2019 has considered my case and returned my case to my employer (copy enclosed).

I have been suffering with severe Diabetic and Asthma and taking treatment. As I am senior citizen aged 64 years living panically with deep mental depression how to evade from the infected Corono Virus (Covid-19) pandemic disease and passing through very crucial period of Covid-19.



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As the Addl. Chief Secretary, ADTW and Chairman, SLSC already returned my case, to my employer, I request that further enquiry may kindly be dropped please.”

The reasons stated by the petitioner for his non-appearance by his communication shows that he made up his mind not to appear before the Committee believing that the Committee had earlier returned to the petitioner's employer.

10. When further notice was issued to the petitioner, the petitioner submitted representation dated 14.12.2020 giving reply in the following lines :

“I have been suffering with severe Diabetic and Asthma and taking treatment. As I am a senior citizen aged 64 years living panically with deep mental depression how to evade from the infected Corono Virus (Covid-19) pandemic disease and passing through very crucial period of Covid-19.

As the Addl. Chief Secretary, ADTW and Chairman, SLSC already returned my case to my employer (copy enclosed), I request that further enquiry may kindly be dropped please.”



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11.The Hon'ble Supreme Court had occasion to decide the relevance and importance of verifying the genuineness of the Community Certificate issued to individuals. It is on account of several irregularities pointed out by the State in various cases, Courts have consistently held about the importance of scrutiny by State Level Scrutiny Committee. The Government, following the directions of the Hon'ble Supreme Court, has framed guidelines in G.O.(Ms).No.106, Adi Dravidar and Tribal Welfare (CV I) Department, dated 15.10.2012.

12.Since the result of an enquiry relating to verification of community status can deprive a person of his livelihood, this Court has consciously passed several orders reiterating the requirement of observance of principles of natural justice. However, all the principles that were reiterated by this Court were only to enable a person to make effective representation and file necessary documents at every stage to sustain his claim regarding his community status. If a person consciously fails to respond to the notices or participate in the enquiry, this Court or any Court cannot help such person



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to get his claim decided in his favour. This Court finds that the petitioner herein has not made out any case, having regard to the stand taken by the petitioner all along. The petitioner was never willing to participate in the enquiry regarding verification of the community status. From the counter affidavit filed by the 4th respondent, the 4th respondent had initiated action for scrutiny and verification of community status of the petitioner, several years before his retirement. The State Level Scrutiny Committee, despite issuing notice dated 11.11.2020 to the petitioner about the enquiry, the petitioner consciously refrained from appearing for enquiry or producing any documents. This would only lead to an inference that the petitioner knows well that he cannot establish his community status if proper enquiry is conducted. The petitioner, who raises some procedural irregularities, has to explain his conduct as to why he has not participated when the enquiry was conducted. The petitioner has suffered an order only because of his recalcitrant and non-cooperative attitude and he cannot agitate here as if the respondents have committed serious irregularities.

13.This is a classic case of depriving the employment to a genuine



person by virtue of a false declaration by this petitioner. From the counter affidavit filed by the 4th respondent, it is seen that, ever since the appointment of the petitioner was on 15.06.1979 as Assistant Station Master, from 2007, till the date of superannuation on 31.05.2017 for about two decades, the petitioner has consistently resorted to dilatory and delaying tactics by evading production of Community Certificate.

14.The 4th respondent, in the counter affidavit, has made it very clear that the Community Certificate which was produced before the 4th respondent at the time of employment was returned to petitioner. It is stated that original of documents would be returned to the employees and not retained by the employer. Therefore, the petitioner was advised to submit original Community Certificate on or before 25.06.2007. The petitioner who requested for time to obtain Community Certificate, did not produce. It is stated that the petitioner consciously failed to produce the same and adopted dilatory tactics. Thereafter, the employer was requesting the Chairman of SLSC to expedite the process of verification.



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15.The attitude and behaviour of the petitioner would clearly show his arrogance and indifference after the employment with the 4th respondent. The State Level Scrutiny Committee requested the Vigilance Cell to verify the genuineness of Community status of petitioner. The report would clearly show that an enquiry was conducted by the Vigilance Cell. The Anthropologist's report would also clearly shows that the petitioner's claim that he belongs to Kondareddis Community is false.

16.The stand taken by the petitioner that the 4th respondent ought to have produced the Community Certificate before the Scrutiny Committee, is a novel idea of the petitioner. The case of the employer that the Community Certificate was returned by the 4th respondent after verification cannot be discarded. The petitioner consciously was making a representation before the 4th respondent as well as before the State Level Scrutiny Committee that the employer has to produce the Community Certificate. Such an attitude and behaviour in not producing the Community Certificate before the authorities and State Level Scrutiny Committee cannot be appreciated



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having regard to the conscious decisions of Hon'ble Supreme Court giving directions regarding the manner in which the verification has to be done.

17. Therefore, this Court is not inclined to show any indulgence to the petitioner as the petitioner who refused to participate at every stage of verification process and exhibited an unfair attitude cannot take advantage of his own conduct to blame the respondents, in the absence of any cogent evidence except some documents obtained by self declarations.

18. In view of the conclusions reached above, this writ petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petitions are closed.

(S.S.S.R., J.) (N.S., J.)
14.02.2024

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Neutral Citation : Yes / No



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