



W.P.No.9985 of 2021

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2024

CORAM:

THE HONOURABLE MR JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR JUSTICE C.KUMARAPPAN

W.P.No.9985 of 2021
and
W.M.P.Nos.10609 and 10607 of 2021

K.Nagan

...Petitioner

Vs.

1. The Chairman,
State Level Scrutiny Committee-II
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maligai,
Secretariat, Chennai – 9.

2. The Chief General Manager,
Bharath Sanchar Nigam Limited,
Chennai Telephones,
No. 78, Purasaivalkkam High Road,
Chennai – 10.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the first respondent in its proceedings No.9487/CV-4(1)/2010-23, dated 17.02.2021 and quash the same.



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For Petitioners : Mr. V.Vijayashankar

For Respondents : Mr.P.Kumaresan,
Additional Advocate General
assisted by
Mr.Vadivelu Deenadayalan,
Additional Government Pleader
(for R1)
Mrs. K.Parameshwari (for R2)

ORDER

*(Order of the Court was delivered by **R.SUBRAMANIAN, J.**)*

The petitioner, who was favoured with a certificate that he belongs to the Kondareddis, a Scheduled Tribe Community, on 08.02.1982, was appointed as a Technician with the second respondent on 16.02.1983. A charge memo was issued in 1987 based on an adverse report from the Adi Dravidar Cell. The said charge memo was challenged by the petitioner in W.P. No. 8186 of 1987. On 16.09.1994, this Court allowed the Writ Petition, quashing the charge memo with a finding that it is for the District Collector to take steps to cancel the certificate. However, no further steps were taken pursuant to the said order dated 16.09.1994.



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2. Subsequently, in 2017, the District Level Vigilance Committee launched an enquiry and the petitioner appeared for the enquiry. After examination, the District Level Vigilance Committee filed a report stating that the claim of the petitioner that he belongs to Hindu Kondareddis, a Scheduled Tribe Community, is genuine. The said report was forwarded to the State Level Vigilance Committee by the Director of Tribal Welfare, under cover of the letter dated 12.02.2018. The Vigilance Committee thereafter continued the enquiry and concluded that the petitioner does not belong to the Hindu Kondareddis Community. On the said finding, the certificate was cancelled. Hence, the petitioner has come with this Writ Petition challenging the cancellation.

3. Mr. V. Vijayashankar, the learned counsel for the petitioner, would submit that the law is settled to the effect that once the District Level Vigilance Committee concludes that the petitioner's claim is genuine, no further enquiry can be done by the State Level Scrutiny Committee. Reliance in this regard is placed by the learned counsel on the judgement of



the Division Bench of this Court in ***G. Venkatasamy and Another vs. The Chairman***, reported in ***(2016) 1 MLJ 606***. After analysing the law on the point, the Division Bench of this Court had set out the procedure that is to be followed by the State Level Scrutiny Committee in matters relating to verification of Community Certificate. The relevant portion of the judgement of the Division Bench of this Court in ***G. Venkatasamy's case*** (cited supra) reads as follows:-

“29. From the afore stated analysis, it is manifest that the authorities are required to investigate, identify and conduct the enquiry in the following manner:

i. The authority competent to issue the community certificate, on receipt of the application, shall investigate the application in an open and transparent fashion, affording opportunity of hearing.

ii. The candidate shall have full liberty to explain the documents placed by him or collected by the investigating agency and he shall have opportunity to cross examine the witnesses, if required. The entire exercise shall be completed at the earliest, preferably, within a period of three months.



iii. *On receipt of the community certificate issued by the competent authority, the candidate or any other party interested therein may refer the matter to the State Level Scrutiny Committee for verification.*

iv. *On receipt of the application for verification, the State Level Scrutiny Committee shall refer the matter to the Vigilance Cell for enquiry.*

v. *The Vigilance Cell, as constituted, shall investigate into the social status claim of the applicant, visiting the local place of residence and original place from which the candidate hails and usually resides. The Vigilance Officer, assisted by the Inspector of Police, shall verify all the documents and collect relevant facts in an open and transparent manner from all the relevant places such as school, locality etc. and persons such as parents and close relatives of the concerned caste. The Vigilance Cell shall also record the anthropological and ethnological traits and rituals, customs, mode of marriage and other ceremonies of the community claimed by the candidate. Thereafter, on receipt of explanation from the candidate, on a proper examination of the same, a reasoned report shall be submitted to the State Level Scrutiny Committee.*

vi. *The State Level Scrutiny Committee, on receipt of the Vigilance Cell report, if it is found adverse, shall issue a*



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*show cause notice to the candidate with a copy of the report and all the documents submitted by the Vigilance Cell to the concerned candidate, calling upon him to file his reply/explanation/representation and also express his intention to examine witnesses, if necessary. **In the event, the report supports the claim of the candidate, the State Level Scrutiny Committee shall not proceed further, but to pass the order.** (Emphasis supplied)*

vii. The State Level Scrutiny Committee, on completion of the enquiry, shall send a copy of the proceedings/order to the candidate within a period of two weeks.

viii. Such verification shall be completed within a period of two months, after receipt of the Vigilance Cell Report, preferably, by day-to-day proceedings.”

4. This judgement of the Division Bench of this Court is in consonance with the conclusion of the Hon'ble Supreme Court in **Dayaram Vs. Sudhir Batham & others** reported in **2011 (6) CTC 192**. Another Division Bench of this Court, to which one of us (Justice R. Subramanian) was a party in W.P.No.230 of 2022 (**J.Nagesh vs. The Chairman, the State Level Scrutiny Committee and others**) had followed the dictum of the



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Division Bench of this Court in ***G.Venkitasamy's case*** (cited supra) and had held that normally the conclusions of the Vigilance Committee will be binding on the State Level Scrutiny Committee and once the District Level Vigilance Committee comes to the conclusion that the claim is genuine, the State Level Scrutiny Committee cannot conduct a re-enquiry to conclude that the claim is not genuine. The same exercise has been carried out in the case on hand also.

5. Though Mr. P. Kumaresan, the learned Additional Advocate General appearing for the State Level Scrutiny Committee, would seriously contend that the conclusions are based on documentary evidence. In the absence of any findings to the effect that the report of the District Level Vigilance Committee is flawed for one reason or another, the State Level Scrutiny Committee cannot launch upon a re-enquiry. It is, therefore, clear that the State Level Scrutiny Committee has transgressed its power by entering upon an enquiry after the conclusion of the District Level Vigilance Committee went in favour of the petitioner.



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6. We are, therefore, constrained to interfere and set aside the impugned order. This Writ Petition is allowed and the impugned order dated 17.02.2024 is quashed. The certificate of the petitioner is upheld. Consequently, the connected Miscellaneous Petitions are closed. No costs.

(R.S.M., J.) (C.K., J.)
17.12.2024

kv

Index : Yes/No

Speaking order /Non Speaking Order

Neutral Citation : Yes/No

To

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State Level Scrutiny Committee-II<
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