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W.P.Nos.9995, 20290 of 2021 & 12700 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 28.03.2024

Pronounced on : 12.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.Nos.9995, 20290 of 2021 & 12700 of 2022

and

W.M.P.Nos.10615, 10616, 21542, 21544 of 2021,
12153 & 12154 of 2022

W.P.No.9995 of 2021 :

C.Arumugam

... Petitioner

Vs.

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

2.The Secretary,
Chennai Port Trust,
Chennai – 1.

... Respondents



W.P.Nos.9995, 20290 of 2021 & 12700 of 2022

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the 1st respondent in its proceedings No.15865/CV-41(1)/2012-14, dated 03.02.2021, and quash the same.

For Petitioner	:	Mr.V.Vijayashankar
For R1	:	Mr.P.Kumaresan Additional Advocate General assisted by Mrs.V.Yamuna Devi Special Government Pleader
For R2	:	Mr.Haja Mohideen Gisthi

W.P.No.20290 of 2021 :

R.Nirmala ... Petitioner

Vs.

1.The State Level Scrutiny Committee-III,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maligai, Secretariat,
Chennai – 600 009.

2.V.Priyadarshini, S.F.S.
Deputy Conservator of Forest,
Member Secretary,
State Level Scrutiny Committee – III,
Adi Dravidar and Tribal Welfare Department,
Chennai – 600 009.



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3. The Deputy General Manager,
Human Resource Management Department,
Reserve Bank of India,
Fort Glacis, No.16, Rajaji Salai,
P.B.No.40, Chennai – 600 001.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the 1st respondent in proceedings No.15186/CV-5/2009 dated 05.08.2021 and quash the same.

For Petitioner	:	Mr.L.Chandrakumar for Mr.N.Naganathan
For R1	:	Mr.P.Kumaresan Additional Advocate General assisted by Mrs.V.Yamuna Devi Special Government Pleader
For R3	:	Mr.C.Mohan for M/s.A.Rexy Josephine Mary for M/s.King and Partridge
For R2	:	No appearance



W.P.Nos.9995, 20290 of 2021 & 12700 of 2022

W.P.No.12700 of 2022 :

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Kannaki Selvaraj

... Petitioner

Vs.

1.The Tamil Nadu State Level Scrutiny Committee-III,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavignar Maligai, Secretariat,
Chennai – 600 009.

2.A.S.Mohan Ram,
Deputy Conservator of Forests/
Member Secretary (FAC)
State Level Scrutiny Committee-II,
Adi Dravidar and Tribal Welfare Department,
Secretariat,
Chennai – 600 009.

3.The Reserve Bank of India,
Represented by its Regional Director,
Rajaji Salai, Chennai – 600 001.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the 1st respondent in its proceedings No.5003/CV-6/2010-23 dated 03.09.2021, and quash the same.



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For Petitioner	:	Mr.L.Chandrakumar for Mr.N.Naganathan
For R1	:	Mr.P.Kumaresan Additional Advocate General assisted by Mrs.V.Yamuna Devi Special Government Pleader
For R3	:	Mr.C.Mohan for M/s.A.Rexy Josephine Mary for M/s.King and Partridge
For R2	:	No appearance

COMMON ORDER

S.S. SUNDAR, J.

All these writ petitions are filed challenging the order passed by the State Level Scrutiny Committee, the 1st respondent in the writ petitions, by holding that the petitioners in the respective writ petitions do not belong to the community which is listed under the Scheduled Tribes, on verification of the community status of the respective petitioners, and by rejecting their claim that they belong to a community which is listed under Scheduled Tribes.



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2.Since a few common issues have been raised in all these writ petitions, these writ petitions are disposed of by this common order.

3.It is relevant to record the basic facts in each case.

4.The facts in W.P.No.9995 of 2021 are as follows :

4.1.The petitioner obtained a Community Certificate from the Tahsildar in 1978 that he belongs to the community “Kondareddis” which is classified as Scheduled Tribe. The petitioner joined in service as a Lower Division Clerk (LDC) on the basis of his community status as Scheduled Tribe, in Chennai Port Trust, the 2nd respondent in the writ petition. The petitioner got promotion as Assistant Administrative Officer, Accounts Officer and finally as Labour Welfare Officer. He attained superannuation on 30.06.2015 and terminal benefits were sanctioned to the petitioner after getting an undertaking from the petitioner.



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4.2.It appears that based on a complaint from Tamil Nadu Tribal People's Federation, dated 09.04.2012, the 2nd respondent has requested the 1st respondent to verify the genuineness of the Community Certificate of the petitioner and forward a report to the 2nd respondent for taking further action. It is on account of the pendency of the complaint, an Indemnity Bond was obtained from the petitioner and it is stated by the 2nd respondent that the petitioner's terminal benefits were settled and pension was paid subject to the condition that he would be liable to remit the terminal benefits to the 2nd respondent, in case it is found that the Community Certificate produced by the petitioner is false or bogus on verification of his community status.

4.3.However, strangely the petitioner himself admits that, in response to the notice issued by the Vigilance Cell, Thiruvallur, for enquiry, he sent a reply stating that verification into his community status was not called for as he had already reached superannuation. There was total non-cooperation. It is admitted that the Vigilance Cell submitted a report as to their inability to



conduct full fledged enquiry on account of the petitioner's non-cooperation.

In response to a notice issued by the Director of Tribal Welfare, dated 18.06.2016, and the communication sent by the Deputy Superintendent of Police, Thiruvallur, dated 03.11.2017, the petitioner has given the following reply :

“Further, I bring to your kind notice that our port trust had settled all my terminal benefits including disbursement of monthly pension. Now I am suffering from old age ailments such as chronic diabetics with regular insulin and right leg knee cup removed, left ball hydrocele operation. Further I have moved from my native village to Chennai. Further my wife is also suffering with diabetic and ortho problem.

It is very much physical pain and mental agony to me at this age with regard to verification of my community certificate even after my retirement. Now, I had received a communication from the deputy superintendent of police (SJ & HR). Tiruvallur to appear before him. Taking into consideration of my health conditions and old age ailments. I humbly request yourself that the verification of my community certificate even after my retirement after



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receiving all my terminal benefits and pension. It may be kindly be dropped/ cancelled on humanitarian ground. The copies of necessary documents are enclosed for kind perusal.”

It is pertinent to mention that a copy was also marked to a Human Rights Organisation in Thiruvallur, to register his stand that he has been unnecessarily harassed by the enquiry into his community status after his retirement.

4.4. Thereafter, the 1st respondent addressed a communication to the 2nd respondent, dated 03.12.2020, requesting the 2nd respondent to instruct the petitioner to appear before the State Level Scrutiny Committee for enquiry on 16.12.2020 along with documents specified therein. Since a copy of the letter was also sent to the petitioner, in response to the same, the petitioner expressed his inability to produce documents and prayed for two months' time. He also cited the pandemic due to corona as a reason why he could not come out. However, no document or statement about his claim was made before the 1st respondent, even though the petitioner was aware that the enquiry as to his community status is legitimate and it was at the



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instance of the 2nd respondent, his employer.

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4.5.By the impugned order dated 03.02.2021, the 1st respondent after examining the documents, the reports of the Deputy Superintendent of Police, the Vigilance Cell, Thiruvallur, and the Anthropologist, concluded that the Scheduled Tribe Community Certificate issued to the petitioner holding that he belongs to Kondareddis, is not correct. The 1st respondent directed the District Collector, Thiruvallur, to confiscate the Community Certificate issued to the petitioner by the Tahsildar, Tiruttani, dated 08.11.1978, and recommended to take stringent action against the individual.

4.6.Learned counsel for the petitioner raised the following points while challenging the impugned order :

- (a) The 1st respondent has not followed the guidelines and procedure outlined by the Government vide G.O.(Ms) No.108, Adi Dravidar and Tribal Welfare Department, dated 12.09.2007 and G.O.(Ms).No.106, Adi Dravidar and Tribal Welfare (CV I) Department, dated



15.10.2012.

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- (b) The Vigilance Report is not furnished to the petitioner. Even assuming that the petitioner did not cooperate for spot verification, it is the duty of the Vigilance Cell to conduct spot verification, collect materials, and furnish report to the individual. Hence, the impugned order is vitiated.
- (c) The 1st respondent referred to the report of the Anthropologist without furnishing a copy of such report to the petitioner.
- (d) As per the directives of the National Commission for ST, only the community status of persons who got appointment after 1995 alone can be subjected to verification and the verification of community status of the petitioner who was appointed in the year 1978 is not called for.
- (e) As per the judgment of the Hon'ble Supreme Court in ***Kumari Madhuri Patil and another v. Additional Commissioner, Tribal Development and others*** reported in ***(1994) 6 SCC 241***, the process of verification ought to have been undertaken at the time of appointment or shortly thereafter. The process of verification after the



retirement of the petitioner is impermissible.

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(f) The petitioner was not given sufficient opportunity to participate in the enquiry and put forth his documents to support his claim as to his community status.

4.7. Even though the petitioner has also raised a few more grounds on the merits of his claim that he belongs to the community “Kondareddis”, the petitioner has not filed a single document even before this Court.

4.8. Separate counter affidavits are filed by respondents 1 and 2. The 1st respondent, in the counter affidavit, pointed out the attitude and non-cooperation of the petitioner at every stage of enquiry. The 1st respondent referred to a letter of Government of India, Ministry of Home Affairs, dated 02.05.1975, pointing out the nature of enquiry to ascertain the community status of the petitioner at the time of verification. In the absence of any document filed by the petitioner, the 1st respondent justified its order on the basis of the report of the District Vigilance Cell, as well the Anthropologist associated with the District Vigilance Cell. It is also stated in the counter



affidavit that the petitioner has not even furnished the basic information which are required to be considered by the 1st respondent. Since the community “Kondareddis” is recognized as a native tribe of Hills located in Godhavari District of Andhra Pradesh, the 1st respondent specifically pointed out the total non-cooperation of the petitioner, who has failed to give the minimum information about his origin and migration of his forefathers from tribal area or about any other independent records which will have some probative value.

4.9. In the counter affidavit of the 2nd respondent, it was pointed out how and why the verification of the community status of the petitioner was required. The 2nd respondent also has stated about the communications sent to the petitioner to cooperate during enquiry.

5. The facts in W.P.No.20290 of 2021 are as follows :

5.1. The writ petitioner is a native of Arundalaipur Village in Trichy District. The petitioner claims that she belongs to Hindu Konda Reddy community which is a Scheduled Tribe, under the Presidential Order. The



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petitioner obtained Community Certificate on 09.06.1981 from the Personal Assistant to District Collector, Madras. The petitioner has stated that she got selected in Southern Railways as a Temporary Clerk on 07.08.1981, based on her community status as Scheduled Tribe. It is her case that, even when she was an employee under Southern Railways, the District Collector directed cancellation of her earlier Community Certificate, by proceedings dated 03.08.1981. Thereafter, the petitioner obtained a fresh Community Certificate by proceedings of Tahsildar, Madras, dated 03.08.1981. It is pertinent to mention that the earlier Community Certificate was issued in Chennai, even though the petitioner belongs to Salem District. However, the petitioner, thereafter, obtained a Community Certificate from the Tahsildar, Attur, Salem District, on 20.11.1981. It is admitted that the petitioner was appointed as Clerk in Reserve Bank of India (RBI) under the quota reserved for Scheduled Tribes on the basis of the Community Certificate issued by the Tahsildar, Attur, Salem District. The petitioner retired from service on 31.08.2018.



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5.2.Few years after the petitioner's entry into service under the 3rd respondent/RBI, on the representation of an organisation by name “Scheduled Caste Uplift Union”, the 3rd respondent referred the petitioner's Community Certificate to the District Collector, Salem, for verification of the petitioner's social status once again. The petitioner filed a writ petition in W.P.No.10292 of 1989 before this Court, to forbear the respondents from conducting re-verification of her social status on the ground that the same had already been done by the District Collector, Chennai, on 03.08.1981. However, the District Collector, Salem, after conducting enquiry once again, cancelled the Community Certificate dated 20.11.1981, by proceedings dated 23.06.1997.

5.3.Against the cancellation of Community Certificate, the petitioner filed a writ petition in W.P.No.11140 of 1997 and this Court allowed the writ petition. As against the order of this Court in W.P.No.11140 of 1997, the District Collector, Salem, filed a Writ Appeal in W.A.No.1468 of 2005 and this Court, by its order dated 24.03.2009, clarified that the order passed in



the writ petition will not stand in the way of the duly constituted Committee to go into the genuineness of the Community Certificate issued to the petitioner. The order, dated 24.03.2009, in W.A.No.1468 of 2005, reads as follows :

“6.We do not find any merit in the writ appeal warranting interference with the order of the learned Judge. Hence, while disposing of the writ appeal, we make it clear that the order of the learned single Judge will not stand in the way of the duly constituted committee to go into the genuineness of the community certificate issued to the first respondent certifying herself as belonging to Scheduled Tribe. With these observations, the writ appeal is disposed of. No costs. Consequently, W.A.M.P.No.2733 of 2005 is closed.”

5.4. Thereafter, the State Level Scrutiny Committee initiated proceedings for the verification of community status of the petitioner whether she belongs to Hindu Kondareddis. After getting a report from the Vigilance Cell and following the procedure, the State Level Scrutiny Committee issued notice to the petitioner. However, the petitioner did not respond to the notice and the State Level Scrutiny Committee passed final



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orders by proceedings dated 05.08.2021, holding that the Community Certificate issued to the petitioner showing that the petitioner belongs to Kondareddis, a Scheduled Tribe Community, is a bogus/fake certificate obtained fraudulently. The State Level Scrutiny Committee directed the District Collector, Salem, to confiscate the Community Certificate and recommended for initiation of further proceedings against the petitioner. The said order of the 1st respondent dated 05.08.2021 is challenged in W.P.No.20290 of 2021.

5.5.A counter affidavit was filed by the respondents 1 and 2 *inter alia* pointing out that enquiry notices were issued to the petitioner by the Vigilance Cell through the Assistant Commissioner of Police, Social Justice and Human Rights Wing, Salem City, requesting the petitioner to appear before the Village Administrative Officer, Sendarapatti Village, Salem District, on 28.05.2019 and 10.06.2019, with relevant documents. However, the petitioner did not appear for the enquiry under the pretext that no enquiry should be conducted again. She requested the officials to drop further enquiry proceedings. However, the petitioner submitted a few



documents. After the directions of this Court in the Writ Appeal as indicated above, another writ petition was also filed by the petitioner in W.P.No.16432 of 2019 before this Court against the 3rd respondent/employer, with a prayer to direct the employer to disburse all the terminal benefits with reasonable interest. This Court, while disposing of the writ petition, directed the State Level Scrutiny Committee to proceed with the verification of the Community Certificate issued to the petitioner. Therefore, the petitioner, in all fairness ought to have cooperated with the enquiry. When the enquiry notice was issued by the State Level Scrutiny Committee by its letter dated 11.12.2020, the petitioner, by a letter dated 26.12.2020, requested the Chairman, State Level Scrutiny Committee, to drop verification of her Community Certificate. Despite such response from the petitioner, the State Level Scrutiny Committee, once again, decided to provide an opportunity to the petitioner by asking her to appear for enquiry on 27.01.2021 along with documents. However, the petitioner, with a motive, continued to be absent and justified her willful non-cooperation. The petitioner sent a letter dated 25.01.2021, requesting the Chairman, State Level Scrutiny Committee, to drop the proceedings for verification of her Community Certificate.



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Thereafter, the Director of Tribal Welfare, issued a communication to the State Level Scrutiny Committee on the basis of the report of the Vigilance Cell, pursuant to their independent enquiry.

5.6.From the counter affidavit, it is seen that the Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes also, on the appraisal of the facts about the non-cooperation, by its letter dated 04.02.2021, recommended to take appropriate action as per the existing realities and decide judiciously by following due process of law without any delay. Even after all these, the State Level Scrutiny Committee issued another notice calling upon the petitioner to appear for enquiry on 25.05.2021 along with documents. However, the petitioner did not appear nor produced any document to substantiate her claim that she belongs to the community Kondareddis.

5.7.It is further stated in the counter affidavit that, in the absence of any document, the State Level Scrutiny Committee examined the materials collected during enquiry. It is revealed by the Committee that the



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community of the petitioner was recorded as “Reddiyar” in the Secondary

School Leaving Certificate issued to the petitioner in the year 1975.

Similarly, in the certificate issued by the Principal, Seethalakshmi Ramasami College, dated 19.05.1983, it is stated that the petitioner had been a student in 3rd year B.A. (English Literature) during 1978-79 and that she belongs to “Forward Class – Reddiyar”. Though the petitioner produced the Community Certificate issued by the Tahsildar, Madras, dated 03.08.1981, the State Level Scrutiny Committee noticed certain irregularities in the nature of certificate issued without showing the Certificate Number, Serial Number, Initials of Deputy Tahsildar of the concerned Section, etc. In the letter dated 03.08.1981, the Collector of Madras, has indicated that the petitioner belongs to Kondareddis Community. On proper scrutiny of all the documents, the State Level Scrutiny Committee found that the said document must be a forged one created purposefully to substantiate the individual's claim contrary to her real community status. The report of the Revenue Divisional Officer, Attur, dated 29.06.2018, and the petitioner's Community Certificate issued by the Tahsildar, Attur, dated 20.11.1981, were also considered by the Scrutiny Committee and the Committee found



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that the two documents are confirmed to be forged/fake. The Committee also examined the deposition of the petitioner which was given on 07.06.2019 and the reply of the petitioner to the enquiry notices. In all these communications in response to the notices, the petitioner, in utter disregard to the observations and findings of this Court in the Writ Appeal, has repeatedly said that her Community Certificate cannot be verified after retirement in 2018 and that the summons issued to the petitioner are in violation of the Government Orders.

5.8.The 3rd respondent has also filed an independent counter affidavit reiterating the points that were urged by the respondents 1 and 2 in their counter affidavit and produced before this Court a few documents including the application and petitioner's declaration and the Community Certificate issued to the petitioner in 1981 by the Personal Assistant to Collector, Madras.

5.9.It is seen that the State Level Scrutiny Committee, despite non-cooperation of the petitioner, refused to accept the request of the petitioner



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to drop verification process. After scrutiny of all the documents available with the committee, the 1st respondent Committee passed the impugned order dated 05.08.2021. It was unfortunate to notice that the Assistant Commissioner, as a member of Vigilance Cell, was required to conduct an enquiry. Despite a few notices issued by the Vigilance Cell requesting the petitioner to appear before the Village Administrative Officer in connection with the enquiry proposed by the Vigilance Cell, the petitioner did not appear. Therefore, the Vigilance Cell submitted a report as to their inability to conduct full fledged enquiry. The findings of the Scrutiny Committee indicates that the petitioner has fraudulently obtained fake certificate knowing fully well that she belongs to a Forward Community. Raising various grounds, the petitioner has filed W.P.No.20290 of 2021, challenging the order of State Level Scrutiny Committee, the 1st respondent, dated 05.08.2021.

6.The facts in W.P.No.12700 of 2022 are as follows :

6.1.The petitioner in W.P.No.12700 of 2022 obtained a Community Certificate from the Tahsildar, Musiri Taluk, Tirichirapalli, dated



25.08.1972, showing that she belongs to Hindu Kondareddis, a Scheduled Tribe Community. She has obtained another Community Certificate, dated 17.05.1979, issued by the Deputy Tahsildar, Saidapet, in support of her claim. The petitioner was appointed as Typist under the quota reserved for Scheduled Tribes in the 3rd respondent Bank on 14.12.1981 and her services were confirmed later. However, the 3rd respondent referred the petitioner's Community Certificates for verification. The petitioner immediately filed a writ petition before this Court in W.P.No.9704 of 1985. Though this Court dismissed the writ petition, the petitioner filed a Writ Appeal in W.A.No.241 of 1996. This Court, by its order dated 08.03.1996, directed the District Collector of Chengai-MGR District to hold an enquiry as to the petitioner's community status and also to verify whether the certificate produced by the petitioner before the employer, is true and genuine. During the pendency of the proceedings regarding verification of the petitioner's community status, the petitioner filed yet another writ petition in W.P.No.14668 of 1992, seeking service benefits. The petitioner, thereafter, filed another writ petition in W.P.No.24122 of 2003 for her promotion. It is admitted that the petitioner was given other service benefits and was promoted as Steno Typist



in the year 2003 and further promoted to the post of Assistant Manager in the year 2012. The petitioner retired from service on attaining the age of superannuation on 28.06.2018. The petitioner was also paid provisional pension by the 3rd respondent.

6.2.It is seen that, in view of the pendency of several writ petitions, there was a delay in the process of scrutiny of petitioner's community status as well the genuineness of the Community Certificate issued to the petitioner. Even though the proceedings for verification of petitioner's community status was started in 1985, the proceedings could not be completed for obvious reasons. When the 1st respondent called for enquiry by a notice dated 05.01.2015, the petitioner sought for time by a letter dated 10.03.2015. Again the petitioner was called upon to appear for the enquiry which was scheduled on 11.09.2015. Though the petitioner states that she had submitted a few documents, the 1st respondent, based on the representations of the Revenue Divisional Officer, Tambaram, the report of Anthropologist and other documents, cancelled the Community Certificate issued to the petitioner on 16.10.2015.



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6.3. However, the petitioner challenged the order, dated 16.10.2015, of the 1st respondent, in W.P.No.35939 of 2015. Upon receiving notice from this Court in W.P.No.35939 of 2015, the Secretary to Government, directed the Director of Tribal Welfare to verify the genuineness of petitioner's Community Certificate by making enquiry in the presence of the individual and to submit a detailed report to the State Level Scrutiny Committee. On hearing that a fresh enquiry has been directed by the Secretary on behalf of the 1st respondent, the petitioner withdrew the writ petition on 25.01.2016. Since the terminal benefits of the petitioner were not settled, the petitioner filed a writ petition in W.P.No.16217 of 2019 for issuance of of a Writ of Mandamus directing the employer to disburse the terminal benefits with reasonable interest. The said writ petition was disposed of by this Court with a specific direction to the Scrutiny Committee to conclude the enquiry within a period of four months from the date of receipt of a copy of the order and with a further direction to the petitioner to cooperate with the enquiry so that the authorities can decide the issue as early as possible.



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6.4.Despite a direction by this Court to the petitioner to cooperate with the enquiry, when the Vigilance Cell conducted enquiry, the petitioner refused to cooperate by giving false information consciously. She refused to give the particulars about her father's native and his siblings. Even though she admitted that she hails from a village in Trichy District, the petitioner originally obtained a Community Certificate from Tahsildar, Musiri, and later, a Community Certificate from the Deputy Tahsildar, Saidapet, Chennai. From the independent enquiry conducted by the Vigilance Cell, the Vigilance Cell was convinced to give a report that the petitioner does not belong to the community Kondareddis as claimed by her. Based on the report of the Vigilance Cell and on scrutiny of all other documentary evidence, the 1st respondent/State Level Scrutiny Committee, by the impugned order dated 30.09.2021, concluded that the petitioner does not belong to Kondareddis, a Scheduled Tribe Community. The Committee also opined that the certificate issued to the petitioner by the Tahsildar, Musiri Taluk, dated 25.08.1972, and the certificate issued by Deputy Tahsildar, Saidapet, dated 17.05.1979, are bogus/fake documents obtained



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fraudulently. Aggrieved by the same, the petitioner has preferred

W.P.No.12700 of 2022.

7.In all the three writ petitions, Mr.V.Vijayashankar and Mr.L.Chandrakumar, along with few other learned counsels appearing for the petitioners in similar cases, apart from challenging the factual findings of the State Level Scrutiny Committee on merits, questioned the verification process and challenged the order of State Level Scrutiny Committee on the following grounds :

- i. Verification of community status after the retirement of the petitioners in the respective writ petitions, cannot be entertained. In other words, scrutiny of Community Certificate after the retirement of the individual employees is purely academic and hence, not warranted, particularly a few decades after the individual's getting employment on the basis of such Community Certificate which was issued by a competent authority.
- ii. Pursuant to the directions of the Delhi High Court, the Government of India has decided to verify only the Community Certificates of those



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who had obtained employment under ST Category after 1995. Since a policy decision has been taken by the Government to restrict the verification of community status and the petitioners in all these cases have secured employment long before 1995, scrutiny of their Community Certificate ought not to have been ordered.

- iii. Since the petitioners joined in service in 1980s, verification of their community status cannot be initiated after this length of time. In other words, there should be a time limit to be prescribed by this Court to initiate proceedings for verification of community status of employees in Central and State Government.
- iv. The terminal benefits of the petitioners cannot be delayed or withheld on account of the pendency of proceedings for verification of the Community Certificate or community status of the employees who had secured employment in the quota reserved for SC and ST communities a few decades back.
- v. The petitioners should be given a fair opportunity in the proceedings, especially when the petitioners or employees have shifted their permanent residence, at least taking note of the fact that the



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petitioners and similar persons are away from their natives for several decades.

- vi. The mandatory procedure prescribed by the Courts to serve copy of the report of the Vigilance Cell, as well as the Anthropologist, or any other document that is relied upon by the Scrutiny Committee, should be followed and the employee should be given fair opportunity to cross-examine the persons whose statement is recorded by the Vigilance Cell or the Anthropologist in their report.

8. Several other employees/candidates who have raised similar points in other writ petitions were also permitted to make their submissions in support of the legal points which the learned counsels appearing for the petitioners herein in these three cases have submitted.

9. While hearing the lengthy arguments of not only the learned counsels appearing for the petitioners in these three cases, but also several other counsels who have raised same legal issues in the writ petitions, the learned counsel appearing for the employers in all these three cases, and



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Mr.P.Kumaresan, learned Additional Advocate General, appearing for the official respondents, this Court was requested to consider the following legal issues :

- (A)Whether the verification of community status of Government employee can be continued even after the retirement of employee and whether an enquiry as to the genuineness of Community Certificate would be purely academic as observed by the Hon'ble Supreme Court in *Union of India and another v. S.Renuka and others [SLP (C) No.24458/2019 dated 03.03.2023]* ?
- (B)Whether the verification of Community Certificate or community status of any individual who secured employment under SC or ST quota before 1995, can be permitted/directed ?
- (C)Whether a time limit should be prescribed for initiating proceedings for verification of community status or Community Certificate of an employee ?
- (D)Whether terminal benefits of employees can be withheld on account of pendency of proceedings for verification as to the genuineness of Community Certificate or community status of an employee who



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secure employment under SC or ST quota ?

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Issue No.(A) :

10.Learned counsel for the petitioners relied upon a judgment of the Hon'ble Supreme Court in ***Union of India and another v. S.Renuka and others [SLP (C) No.24458/2019 dated 03.03.2023]***, wherein, the Special Leave Petition filed by the employer was disposed of in the following lines :

“Heard Mr.Abishek Singh, learned counsel appearing for the petitioners. Also heard Mr.R.Bala Subramanian learned senior counsel appearing for the respondent No.1. It is submitted that the respondent No.1 who served in the Railways has superannuated on 28.02.2022 and therefore the exercise in this case would largely be academic on the aspect of whether she belonged to the claimed Scheduled Tribe category.

Considering the above, we deem it appropriate to other the closure of the proceedings.

Accordingly, the Special Leave Petition stands disposed of.”

11.Learned counsel for the petitioners also relied upon an order of a



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Division Bench of this Court in the case of ***V.Vallinayagam v. The Chairman, State Level Scrutiny Committee-II, Secretariat, Chennai [W.P.No.27823 of 2023, dated 25.09.2023]***, wherein, the same judgment referred to above, was relied upon and it is observed that the Hon'ble Supreme Court and various High Courts have time and again stressed that verification after retirement of employees is a wasteful exercise and would be purely academic.

12.Learned counsels appearing for the petitioners relied upon another judgment of the same Division Bench of this Court in the case of ***V.Shanmugaraj v. The Chairman, State Level Scrutiny Committee-II, Secretariat, Chennai [W.P.No.29976 of 2023, dated 03.11.2023]***, wherein, the Division Bench has expressed the same view and held that verification of community status is not called for in such cases where the employee has retired after completing a few decades of service.

13.First of all, it is well settled that judgment is an authority for what it decides and not for what flows from it. The Hon'ble Supreme Court



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closed the Special Leave Petition in *SLP (C) Nos.24458/2019 (supra)* by

recording the fact that the respondent who served in the Railways was superannuated on 28.02.2022 and that the decision in the appeal whether the respondent/ employee belongs to Scheduled Tribe Community or not, would be purely academic. However, the broad principles laid down by several binding precedents of Hon'ble Supreme Court, cannot be ignored. The Hon'ble Supreme Court, in ***Kumari Madhuri Patil and another v. Additional Commissioner, Tribal Development and others*** reported in ***(1994) 6 SCC 241***, expressed its concern how ineligible or spurious persons falsely gain entry by resorting to dilatory tactics and create hurdles in completion of enquiries by the Scrutiny Committee. While expressing their desire that every enquiry relating to community status of an employee should be completed as expeditiously as possible, within a period not exceeding two months, a further direction was issued to cancel the certificate issued to the employee and to confiscate the same. The Hon'ble Supreme Court further observed that, in case the certificate obtained or the social status claimed is found to be false, the parent or guardian of the candidate should be prosecuted for making a false claim. Further direction was also



given to communicate the educational institution or the Appointing Authority by a registered post with a request to cancel the admission or appointment.

The Head of the Institution or the Appointing Authority was required to cancel the admission or appointment without any further notice to the candidate and debar the candidate from further study or continue in office in a post. When serious consequences should follow on finding that an employee who secured employment under SC or ST Quota does not belong to SC or ST community, this Court cannot suggest closing of an enquiry merely because the enquiry was prolonged till the retirement of the employee. There is no statutory provision to prevent scrutiny or verification after retirement of the individual.

14.The Hon'ble Supreme Court, in *Kumari Madhuri Patil's case (supra)*, expressed its anger against those who gain appointment on the basis of false social status which will have the effect of depriving a genuine SC/ST candidate from enjoying certain benefits under Constitution. It is therefore held in that judgment that, a plea of equity or estoppel would not be allowed to be put forth for continuance of or completion of further course



of studies. Any such person who got admission or appointment on the basis of false claim or fake document cannot be allowed to enjoy any privilege as a result of admission or employment. The conduct of such person who gain entry by false certificate, in the opinion of Hon'ble Supreme Court, should be considered as an act of fraud intended to deprive the rights of Schedule Castes and Scheduled Tribes to the beneficial Constitutional concessions and opportunities given to the genuine tribes or castes.

15. In the case of ***R. Vishwanatha Pillai v. State of Kerala and others*** reported in ***(2004) 2 SCC 105***, a three Member Bench of Hon'ble Supreme Court has again reiterated the view expressed by the Hon'ble Supreme Court in *Kumari Madhuri Patil's case (supra)*. The Hon'ble Supreme Court considered the arguments of learned counsel for a candidate who was found to have secured appointment on the basis of a false Community Certificate to the effect that the service of the candidate could not be terminated without following the procedure prescribed under the Service Rules. By relying upon Article 311 of the Constitution of India, in Para No.15, the Hon'ble Supreme Court has held as follows :



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“15.This apart, the appellant obtained the appointment in the service on the basis that he belonged to a Scheduled Caste community. When it was found by the Scrutiny Committee that he did not belong to the Scheduled Caste community, then the very basis of his appointment was taken away. His appointment was no appointment in the eye of the law. He cannot claim a right to the post as he had usurped the post meant for a reserved candidate by playing a fraud and producing a false caste certificate. Unless the appellant can lay a claim to the post on the basis of his appointment he cannot claim the constitutional guarantee given under Article 311 of the Constitution. As he had obtained the appointment on the basis of a false caste certificate he cannot be considered to be a person who holds a post within the meaning of Article 311 of the Constitution of India. Finding recorded by the Scrutiny Committee that the appellant got the appointment on the basis of a false caste certificate has become final. The position, therefore, is that the appellant has usurped the post which should have gone to a member of the Scheduled Castes. In view of the finding recorded by the Scrutiny Committee and upheld up to this Court, he has disqualified himself to hold the post. The appointment was



void from its inception. It cannot be said that the said void appointment would enable the appellant to claim that he was holding a civil post within the meaning of Article 311 of the Constitution of India. As the appellant had obtained the appointment by playing a fraud, he cannot be allowed to take advantage of his own fraud in entering the service and claim that he was holder of the post entitled to be dealt with in terms of Article 311 of the Constitution of India or the Rules framed thereunder. Where an appointment in a service has been acquired by practising fraud or deceit, such an appointment is no appointment in law, in service and in such a situation Article 311 of the Constitution is not attracted at all.

16. After approving the view expressed by the Full Bench of Patna High Court where it has been held that no Constitutional right under Article 311 can flow from any appointment to a civil post which is vitiated by fraud or forgery or illegality, and the principle that no statutory right can flow from any illegal appointment, the Hon'ble Supreme Court further held in Para No.19 as follows :

“19. It was then contended by Shri Ranjit Kumar,



learned Senior Counsel for the appellant that since the appellant has rendered about 27 years of service, the order of dismissal be substituted by an order of compulsory retirement or removal from service to protect the pensionary benefits of the appellant. We do not find any substance in this submission as well. The rights to salary, pension and other service benefits are entirely statutory in nature in public service. The appellant obtained the appointment against a post meant for a reserved candidate by producing a false caste certificate and by playing a fraud. His appointment to the post was void and non est in the eye of the law. The right to salary or pension after retirement flows from a valid and legal appointment. The consequential right of pension and monetary benefits can be given only if the appointment was valid and legal. Such benefits cannot be given in a case where the appointment was found to have been obtained fraudulently and rested on a false caste certificate. A person who entered the service by producing a false caste certificate and obtained appointment for the post meant for a Scheduled Caste, thus depriving a genuine Scheduled Caste candidate of appointment to that post, does not deserve any sympathy or indulgence of this Court. A person who seeks equity must come with clean hands. He,



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who comes to the court with false claims, cannot plead equity nor would the court be justified to exercise equity jurisdiction in his favour. A person who seeks equity must act in a fair and equitable manner. Equity jurisdiction cannot be exercised in the case of a person who got the appointment on the basis of a false caste certificate by playing a fraud. No sympathy and equitable consideration can come to his rescue. We are of the view that equity or compassion cannot be allowed to bend the arms of law in a case where an individual acquired a status by practising fraud.”

17.The consequences of securing employment on the basis of fake certificate or false claim as to the community status of an employee, has also been reiterated by the Hon'ble Supreme Court in the case of ***Chairman and Managing Director, Food Corporation of India and others v. Jagdish Balaram Bahira and others*** reported in ***(2017) 8 SCC 670***. The Hon'ble Supreme Court went to the extent of describing the person who gain entry by false claim as an imposter and the act is held to be a fraud on the Constitution. The Hon'ble Supreme Court observed that an act of fraud on the Constitution lies in such employment by producing false and fake certificates. Therefore, the consequences of such employment secured by a



fraudulent or false claim would give ample power to the Hon'ble Supreme Court to ensure that unjust claims of imposters are not protected by Hon'ble Supreme Court under Article 142 of Constitution of India, by observing that the nation cannot live on such lie. It is further stated that judicial process should not be allowed to be utilised to protect the unscrupulous and to preserve the benefits which have accrued to an imposter on the specious plea of equity.

18.The Hon'ble Supreme Court, in the said judgment, overruled the Full Bench judgment of Bombay High Court in the case of *Arun v. State of Maharashtra* reported in **(2014) SCC Online Bom 4595**. It is to be noted that the Bombay High Court has held that mere invalidation of the caste claim by the Scrutiny Committee would not entail the consequences of withdrawal of benefits or discharge from employment or cancellation of appointments that have become final prior to the decision of Hon'ble Supreme Court in the case of *State of Maharashtra v. Milind* reported in **(2001) 1 SCC 4**. The Hon'ble Supreme Court has also quoted the judgment of Hon'ble Supreme Court in *R.Vishwanatha Pillai's case (supra)* and



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Union of India v. Dattatray reported in (2008) 4 SCC 612, in the following

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“69.3. The decisions of this Court in R. Vishwanatha Pillai [R. Vishwanatha Pillai v. State of Kerala, (2004) 2 SCC 105 : 2004 SCC (L&S) 350] and in Dattatray [Union of India v. Dattatray, (2008) 4 SCC 612 : (2008) 2 SCC (L&S) 6] which were rendered by Benches of three Judges laid down the principle of law that where a benefit is secured by an individual—such as an appointment to a post or admission to an educational institution—on the basis that the candidate belongs to a reserved category for which the benefit is reserved, the invalidation of the caste or tribe claim upon verification would result in the appointment or, as the case may be, the admission being rendered void or non est.”

19.The Hon'ble Supreme Court has further discussed the perspective of the framers of the Constitution to redress the social exclusion, economic deprivation and political alienation suffered by historically disadvantaged classes of Indian society by reservation of posts in public employment and



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seats for admission in educational institutions. Therefore, the conduct of anyone getting employment by producing fake certificate or on the false claim was held to be an act constituting a egregious Constitutional fraud. Finally, the Hon'ble Supreme Court, while deciding every case, has held that, other benefits of any nature, whatsoever, is not admissible to the candidate, whose claim as to his community status was held against him. The Hon'ble Supreme Court, though was not inclined to order recovery of the monetary benefits that was received by the employee, has confirmed all the judgments of the Hon'ble Supreme Court wherever the High Court declined to grant promotion to such employees whose claim as to the community status was negated. The Hon'ble Supreme Court was cautious not to direct payment of terminal benefits to such employees.

20. Therefore, we are unable to follow the three judgments relied upon by the learned counsels appearing for the petitioners, viz., *Union of India and another v. S.Renuka and others [SLP (C) No.24458/2019 dated 03.03.2023]*, *V.Vallinayagam v. The Chairman, State Level Scrutiny Committee-II, Secretariat, Chennai [W.P.No.27823 of 2023, dated*



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25.09.2023] and *V.Shanmugaraj v. The Chairman, State Level Scrutiny*

Committee-II, Secretariat, Chennai [W.P.No.29976 of 2023, dated

03.11.2023], in view of the categorical pronouncement of the Hon'ble

Supreme Court in the judgments above referred to, on principles. Ratio of

judgment alone is binding. It is only the reason assigned in the *ratio*

decidendi of a judgment. The judgment of Hon'ble Supreme Court in

S.Renuka's case without considering the spirit of several judgments

including larger Bench of Hon'ble Supreme Court, need not be followed.

Therefore, we have no hesitation to hold that those three judgments may not

be binding precedents as they were rendered without noticing the binding

precedents on principles reiterated by Hon'ble Supreme Court in the cases of

Kumari Madhuri Patil, R.Vishwanatha Pillai, and Food Corporation of

India (supra). Verification once started shall continue till its logical end and

retirement of an employee during enquiry as to his community status does

not affect the proceedings.

Issue No.(B) :

21.Learned counsels appearing for the petitioners relied upon the



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Office Memorandum, dated 24.12.2020, of the Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes, New Delhi, which reads as follows :

“The undersigned is directed to refer to this Secretariat OM of even number dated 14th December, 2020 on the issues discussed during the meeting held on the sitting held in connection with the above mentioned subject and to state that DoP&T OM no. 230/08/2005-AVD II dated 25.05.2005 & DoP&T OM no. 36011/3/2005-Estt (Res) dated 09- 09-2005, "Verification of SC/ST Caste Certificate and CVC Circular No. 98/DSP/9(Part-2) dated 07-03-2016, "Action on Anonymous /Pseudonymous Complaint (copy enclosed) clearly stipulate the verification of the ST caste certificates of only those employees who were appointed after 1995 under Ministries/Departments including CPSUs or on initial appointment /Promotion. Moreover as per CVC guidelines, no action should be taken on Anonymous/Pseudonymous Complaints. In the present cases there is an inordinate delay in initiation of verification of caste certificates. It is pertinent to mention that the



Departments/Banks/PSus have not adhered to the above mentioned guidelines of DoP&T and CVC and also it is not in conformity with the Hon'ble Supreme Court judgement delivered vide Kumari Madhuri Patil Vs Addl Commissioner in 1995 AIR94, 1994SSC(6)241 Order dated 02.09.1994 since this Judgement can only be implemented in prospective.

2. Here, it is pertinent to bring to your notice DoP&T OM no. 230/08/2005-AVD II dated 25.05.2005 which clearly states the following:-

- "Govemment has, therefore decided that a detailed verification of all such certificates produced before various appointing authorities since 1995 be carried.*
- The CVOs are requested to initiate this task by collecting the details of all those who had been appointed in the Ministries/Departments or agencies including CPSUs with which they are concerned, since 1995 on the strength of ST certificates.*

2. Keeping in view the above mentioned facts, it is requested that the concerned State Level Scrutiny Committees be directed to verify the ST caste certificates of.



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only those employees who were appointed after the year 1995 and the process of verification should be completed within two months. The Action Taken Report in this regard may please be forwarded to this Secretariat at the earliest but not later than 18.02.2021 so that the same may be placed before the Committee.

3.The Committee has also unanimously decided that the RDO, Tiruttani, should be directed to issue caste certificate to all those Children whose parents possess the Kondareddy Caste Certificate issued by the competent authority without further delay. The Action Taken Report in this regard may also be furnished to the Committee latest by 18.02.2021.”

22.Learned counsels appearing for the petitioners relied upon a judgment of the Division Bench of this Court in the case of ***V.Sathyamurthi v. Union of India and others [W.P.No.5737 of 2022, dated 28.10.2022]***, wherein, this Court, after referring to the Office Memorandum issued by the Ministry of Personnel, Public Grievances and Pensions, Department of



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Personnel and Training, Government of India, dated 25.05.2005, has held as follows :

“13.By the Office Memorandum dated 25.05.2005, the Central Government had directed that the community certificates of those persons, who were appointed prior to 1996 should not be verified. The said Office Memorandum was issued taking into account the passage of time and to attach certain finality to the issue relating to communal status. The State Level Scrutiny Committee had rightly sought for a clarification from the Government of Puducherry, as to whether the petitioner would be eligible to the exemptions as per instructions issued in the Office Memorandum dated 25.05.2005.”

23.However, the issue came up for consideration again in ***W.P.No.4484 of 2021 [V.Perumal v. Tamil Nadu State Level Scrutiny Committee-III, Secretariat, Chennai, and others]***, before a Division Bench of this Court consisting of Hon'ble Mrs. Justice J.Nisha Banu and Hon'ble Mrs. Justice N.Mala. Hon'ble Mrs. Justice J.Nisha Banu, relying upon the Office Memorandum dated 24.12.2020, held as follows :

“12.Therefore, in the background of the peculiar



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nature of the issue confronting the just implementation of the constitutional right of reservation, I am of the considerate view that for the appointments that happened before 1995, it is not open for the Central Government, State Government and Public Sector Undertakings to deny continuous employment or post retirement benefits on the basis of a post facto finding of falsity of claims or doubtful caste/community certificates presented at the time of appointments. Similarly, in the light of the instructions contained in O.M. dated 24.12.2020, the question of stripping of degrees and denying retirement benefits on the ground of false certificates will cease to exist. Consequent to the issue of the O.M. dated 24.12.2020, the proceedings of the State Level Committee is of no consequence to the facts and circumstances of this case.”

However, Hon'ble Mrs. Justice N.Mala was unable to agree with the view expressed by Hon'ble Mrs. Justice J.Nisha Banu and observed that the Office Memorandum cannot be interpreted to debar the Scrutiny Committee from verifying the genuineness of ST Certificates issued before 1995 and that such an interpretation would be absurd and unreasonable as this would be like saying that a fraud which was committed before 1995 could be ignored and only if the fraud is committed by one after 1995, the person can be



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brought to book.

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24. In view of the split verdict, the matter was again placed before a third Judge for consideration. As per the orders of the Hon'ble Chief Justice, Hon'ble Dr. Justice G.Jayachandran took up the matter for consideration and by order dated 16.11.2023, agreed with Hon'ble Mrs. Justice N.Mala and held that the observations made in the Official Memorandum dated 24.12.2020 is on the misconception of the earlier Official Memorandum dated 25.05.2005 and such an executive order would not prohibit the enquiry of fake or false caste certificates.

25. Learned counsels appearing for the petitioners, referring to the judgment of the earlier Division Bench, dated 28.10.2022, in *W.P.No.5737 of 2022* submitted that the later decision, without referring to the previous judgment of the co-equal Bench, cannot be accepted as the correct view.

26. Even though the view expressed by Hon'ble Dr. Justice G.Jayachandran, confirming the view of Hon'ble Mrs. Justice N.Mala, is



based on further analysis of factual sequence and legal principles, this Court, in view of serious contentions on the Doctrine of *stare decisis*, is compelled to examine the issue.

27. Before considering the Office Memorandum dated 25.05.2005, it is to be seen that the said Office Memorandum is by way of implementing the directions of Delhi High Court in ***W.P.(C) No.5976 of 2003, dated 12.01.2005***. The learned Additional Advocate General has taken pains to produce before this Court the orders of Delhi High Court dated 12.01.2005. From a reading of this order, it appears that the Delhi High Court entertained a writ petition pertaining to production of fake certificates for getting employments in various Departments of Government. On a preliminary enquiry, a report was submitted before the Delhi High Court to the effect that, taking samples of 10% of total applicants, 30% of the employees are found to have secured jobs on fake certificates. Therefore, the Delhi High Court, on 12.01.2005, passed the following order :

“However, for the time being, we direct that the CBI may examine in detail cases for the period from 1995 to 2000



and on inquiry/investigation, may take appropriate action in accordance with law. Looking to the area to be covered for the purpose of investigation and the number of officers, we feel that there is some justification in the grievance made by the officer about the shortage of staff.”

28. Thereafter, further orders were passed by the Delhi High Court on 23.03.2005 and on 05.05.2005. It was pursuant to the directions of the Delhi High Court, the Office Memorandum dated 25.05.2005 was issued which reads as follows :

“2.CBI was directed by the Hon'ble High Court vide order dated 14th July, 2004 to verify the details of all those persons who had obtained employment under ST category. On preliminary verification, it appears that more than 30% of the ST certificate presented by candidates were either forged or false. Government has, therefore decided that a detailed verification of all such certificates produced before various appointing authorities since 1995 be carried out.

3.In order to achieve this task in a time bound manner, Government has sent up a coordinating mechanism under the Chairmanship of Shri ML.Sharma, Additional Director, CBI



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and the Chief Vigilance Officers (CVOs) of all those who had been appointed in the Ministries/Departments/or its agencies including CPSUs with which they are concerned, since 1995 on the strength of ST certificates. The original ST certificates produced at the time of appointment or whenever verified last, may be taken in personal custody by the CVO. If these certificates are found to be forged/false, these may have to be produced in the appropriate Court for taking action according to the law.”

29. Surprisingly, the Office Memorandum dated 24.12.2020 was issued on a wrong interpretation of the previous Office Memorandum dated 25.05.2005. Para No.2 of the Office Memorandum dated 24.12.2020 would clearly indicate that the Joint Secretary of Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes, has requested the concerned State Level Scrutiny Committees to verify the SC Caste Certificate of only those employees who were appointed after the year 1995 and that the process of verification should be completed within two months. It is to be seen that the Office Memorandum dated 24.12.2020 is again based on a wrong interpretation of the judgment of the Hon'ble Supreme



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Court in *Kumari Madhuri Patil's case (supra)*, by holding that the judgment can only be implemented prospectively.

30. First of all, the judgment of Hon'ble Supreme Court as regards the procedure suggested therein may be held as prospective and not the direction to verify the Community Certificate or status of an individual. The position is also made clear from the 21st Report submitted by the Committee on the Welfare of Scheduled Castes and Scheduled Tribes presented to the Lok Sabha and Rajya Sabha on 20.12.2022. Clause 1.8 in the report dated 20.12.2022 reads as follows :

“1.8. ... Thus, the OM dated 25.5.2005 was only issued to comply with specific directions of Hon'ble Delhi High Court and it did not frame any policy regarding verification of caste certificate of the employees. The policy in this regard provides that timely and effective verification of caste status is necessary so that the benefit of reservation and other schemes of concessions etc. go only to the rightful claimants. It also provides that a caste/community of a person may get descheduled after initial appointment and hence, verification of caste status at every important upturn of employee's



career is also necessary.”

Same view is also expressed in Clause 2.2, wherein, it is again reiterated that the Office Memorandum dated 25.05.2005 was only issued to comply with the specific directions of the Delhi High Court and it did not frame any policy regarding verification of caste certificate of the employees.

31. While considering the issue, it is relevant to point out that the Hon'ble Supreme Court, right from the judgment in *Kumari Madhuri Patil's case (supra)* and subsequently in several judgments, reiterated the position that any certificate which is fake or obtained by fraud will vitiate the appointment and the person deserves to lose all the benefits of his employment. The direction by the Hon'ble Supreme Court in several judgments in exercise of its jurisdiction under Article 141 of the Constitution of India has to be scrupulously obeyed as it is a binding law. In this regard, the binding effect of the judgment of the Hon'ble Supreme Court has been considered by a Constitution Bench of the Hon'ble Supreme Court in ***Commissioner of Central Excise, Bolpur v. Ratan Melting and Wire Industries*** reported in (2008) 13 SCC 1, to hold as follows :



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“7.Circulars and instructions issued by the Board are no doubt binding in law on the authorities under the respective statutes, but when the Supreme Court or the High Court declares the law on the question arising for consideration, it would not be appropriate for the Court to direct that the circular should be given effect to and not the view expressed in a decision of this Court or the High Court. So far as the clarifications/circulars issued by the Central Government and of the State Government are concerned they represent merely their understanding of the statutory provisions. They are not binding upon the court. It is for the Court to declare what the particular provision of statute says and it is not for the Executive. Looked at from another angle, a circular which is contrary to the statutory provisions has really no existence in law.”

32. When the Hon'ble Supreme Court has rendered a judgment which is reiterated in several judgments of the Hon'ble Supreme Court, there cannot be an Office Memorandum which would whittle down the judgment of Hon'ble Supreme Court which is binding as a law declared in terms of Article 141 of the Constitution. When the judgment of the Hon'ble Supreme Court is binding not only as a precedent, but as a law declared, there cannot



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be an official instruction on the interpretation of the judgment so as to limit its operation. This is the mischief that was done by way of the Office Memorandum dated 24.12.2020.

33. Therefore, this Court is unable to agree with the submission of the learned counsels appearing for the petitioners that there cannot be verification of Community Certificates which were obtained prior to 1995. Equally, merely because appointment was before 1995, it cannot be said that verification in those cases cannot be done, as rightly pointed out by Hon'ble Mrs. Justice N.Mala while expressing dissenting view that this Court cannot declare or legitimise fraud committed by a person merely because he obtained the false certificate or got employment based on a false claim before 1995. It is settled that fraud vitiates every solemn transaction and there cannot be a legal sanction to condone fraud if it is committed before 1995. Therefore, irrespective of date of Community Certificate or date of appointment before or after 1995, verification as to the genuineness of Community Certificate or claim as to one's community status shall continue to its logical end.



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WEB COPY **Issue No.(C) :**

34.Learned counsels appearing for the petitioners were unable to produce a single judgment for the proposition that there must be a time limit fixed to initiate verification of Community Certificate or for verification of community status of an individual. It is true that several Office Memoranda or instructions from Central Government and directions by various Courts have been issued to frame necessary guidelines to all the concerned for ensuring timely verification of the caste certificates of all the employees belonging to the reserved categories. Even though general directions have been given by Courts to complete verification of caste certificates before the date of superannuation of the employee, no prescribed period of limitation is suggested by any Court or by a Statute.

35.It is to be noted that the Hon'ble Supreme Court, in the judgment dated 02.09.1994 in *Kumari Madhuri Patil's case (supra)*, has laid down detailed guidelines for effective verification of the caste certificates of the employees by the State Government. Learned counsels appearing for the



petitioners relied upon Para No.13(3) of the judgment in *Kumari Madhuri*

Patil's case (supra), which reads as follows :

“13(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.”

The portion relied upon by the learned counsels appearing for the petitioners, if understood in the context, the verification suggested by the Hon'ble Supreme Court is at the instance of persons seeking admission into educational institutions or appointment in any Government Department. The verification at their instance should be six months before seeking admission into educational institutions or appointment to a post. The judgment of the Hon'ble Supreme Court would only indicate that, irrespective of getting a certificate from authority who is competent, the person producing such certificate is expected to voluntarily submit himself and his certificate for verification. We need not go too far, but by reading several judgments of Hon'ble Supreme Court, this Court is unable to fix any time limit or limitation. Unless we have a fool proof system which is administered by a forum or a machinery to ensure issuance of Community



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Certificates to only those who are eligible, this Court cannot prescribe any time limit or limitation for reference of the Community Certificates for verification. Any person who gets fake certificate or makes a false claim as to his community status to get employment under the reserved category, commits fraud and therefore, the person should be deprived of any benefit reaped out of such fraud irrespective of delay. Fraud vitiates every solemn transaction, as it has been repeatedly held in many number of judgments in different contexts.

36.The object behind reservations has been discussed in several judgments of Hon'ble Supreme Court in the present context and it has been repeatedly held that a person who entered the service by producing a false caste certificate has instantly deprived a genuine SC candidate of appointment to that post and that therefore, such person who produces false caste certificate does not deserve any sympathy or indulgence from Courts.

37.As it was pointed out by the Constitution Bench of the Hon'ble Supreme Court in *State of Maharashtra v. Milind* reported in (2001) 1



SCC 4, which is clarified by later judgments, no person can take advantage of the Scheduled Tribes Order for any other purpose, merely because he has been shown indulgence to complete his course or has secured an appointment by producing false certificate. Mere delay in making a reference does not invalidate the order on scrutiny by competent authority. Since we have held that verification can continue even after retirement of an employee, this Court finds no logic to accept the arguments of learned counsels appearing for the petitioners that there must be time limit or limitation to be prescribed.

Issue No.(D) :

38.This Court, in several cases, finds that the delay is caused mainly due to the recalcitrant and non-cooperative attitude of the employees who refuse to cooperate with the enquiry under some pretext or the other. Despite the Government spending huge money for establishing a machinery to verify the genuineness of the certificates or the claims as to one's community status, the manner in which the employees adopt delaying tactics, precludes us from holding that the employee should be given benefit



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of his employment or terminal benefits even during the pendency of verification of community status.

39. In a case where the verification was initiated just before retirement on the basis of a stale claim or a complaint without any verifiable material, the terminal benefits of an employee cannot be withheld merely because the enquiry has been commenced. In all other cases, where delay is attributable to the conduct of employee, there must be some protection to the employer in the matter of disbursement of retirement benefits. Depending upon the individual cases, this Court can direct provisional pension to be disbursed to the employee subject to the outcome of verification process either by State Level Scrutiny Committee or by the District Level Vigilance Committee. Once a person is retired, the verification process cannot be delayed beyond three months. If the employee seeks unnecessary adjournment or refuses to appear for an enquiry, he need not be given provisional pension or retirement benefits without giving him a clean chit as to the genuineness of his claim.

40. All other points raised by the learned counsels appearing for the



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petitioners have to be considered with reference to facts on a case to case basis and therefore, this Court is not inclined to lay down any general principles on the analysis of only three individual cases, especially when this Court is not in a position to comprehend the facts in all other cases which were clubbed, but later delinked.

Conclusion in W.P.No.9995 of 2021 :

41.From the facts narrated earlier in this writ petition, it is seen that the petitioner has made several representations to drop the proceedings regarding verification as to his community status. The petitioner failed to furnish any document in support of his claim to prove his community status or to show that the certificate obtained by him is genuine. It is to be seen that the petitioner failed to respond to the notice issued by Vigilance Cell when they wanted the petitioner to appear for the enquiry. The individual's non-cooperative attitude with the Deputy Superintendent of Police, was noticed by the Scrutiny Committee. Even thereafter, the Scrutiny Committee



contacted the employer of the petitioner to request the petitioner to cooperate for the enquiry. The State Level Scrutiny Committee, after receiving a report from the Vigilance Cell, requested the employer of the petitioner to sent their remarks/recommendations. It was after the Secretary of Chennai Port Trust requested the State Level Scrutiny Committee to decide the veracity of the community status of the petitioner on the available materials, the Scrutiny Committee, with the records that were made available to the Committee, found that the Community Certificate issued to the petitioner is fake and bears no probatory value. Except the School records, there was no other document available with the Scrutiny Committee to hold in favour of the petitioner.

42.The willful abstainance from participating in the enquiry before the State Level Scrutiny Committee and petitioner's refusal to appear for an enquiry at the instance of the Vigilance Cell headed by Deputy Superintendent of Police, gives a clear indication that the petitioner has no document with probative value to prove his communal status. The fact that the petitioner avoided the enquiry by Vigilance Cell, is a conscious attempt



made by the petitioner to stall the enquiry, probably the petitioner himself is aware that his claim cannot be proved. In such circumstances, the State Level Scrutiny Committee ought to have drawn adverse inference against the petitioner for his non-cooperative attitude. The finding of the State Level Scrutiny Committee that the certificate produced by the petitioner to show that the petitioner belongs to “Kondareddis” community is not correct, does not suffer from any legal infirmity. When petitioner avoided enquiry by Vigilance Cell and the report of Vigilance Cell was to the effect that they could not conduct any enquiry, the decision of the Scrutiny Committee was not on the basis of enquiry and hence, no prejudice is caused to the petitioner. From the records, the petitioner was given ample opportunity to establish his community status. We find no merit in any of the grounds which are raised, ignoring the facts admitted.

43.This Court has already decided the legal issues (A), (B), (C) and (D) raised by the petitioner, as against the petitioner. This Court has no reason to interfere with the order of State Level Scrutiny Committee having regard to the overall circumstances. Hence, **W.P.No.9995 of 2021 is liable**



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to be dismissed.

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Conclusion in W.P.No.20290 of 2021 :

44.This Court, in the earlier Writ Appeal in W.A.No.1468 of 2005, has specifically observed that the order in the writ petition will not stand in the way of duly constituted Committee to go into the genuineness of the Community Certificate issued to the petitioner. The petitioner received the enquiry notice from the State Level Scrutiny Committee. Very strangely, the petitioner not only failed to appear for the enquiry, but challenged the enquiry proceedings under the pretext that no enquiry should be conducted. When the petitioner himself filed an earlier writ petition for disbursement of terminal benefits, this Court directed the State Level Scrutiny Committee to proceed with the verification of Community Certificate issued to the petitioner. Despite an order by this Court in the writ petition filed by the petitioner, the petitioner continued to be absent and justified her willful non-cooperation. Despite the advice given by the Parliamentary Committee on the Welfare of the Scheduled Castes and Scheduled Tribes, the State Level Scrutiny Committee issued a notice to the petitioner to appear for the



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enquiry on 25.05.2021, along with documents. The petitioner has not disputed the fact that the petitioner's community was recorded as “Reddiyar” in the Secondary School Leaving Certificate issued to the petitioner in 1975. Similarly, the certificate issued by the Principal of the College in which the petitioner studied B.A.(English Literature) during 1978-79 shows that the petitioner belongs to Forward Class (Reddiyar). The State Level Scrutiny Committee noticed certain irregularities in the certificate that was produced by the petitioner to prove her community status. It is surprising to note that the petitioner had boldly submitted representations by contending that her Community Certificate cannot be subject matter of verification/scrutiny after her retirement in 2018. The State Level Scrutiny Committee found that the Vigilance Cell was unable to conduct enquiry, as the petitioner refused to participate in the enquiry proposed by Vigilance Cell. The report of the Vigilance Cell shows their inability to conduct a full-fledged enquiry on account of the non-cooperation of the petitioner.

45.Considering the School records and few documents that were made available before the Scrutiny Committee, the State Level Scrutiny Committee



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specifically held that the petitioner had fraudulently obtained fake certificate, knowing fully well that she belongs to the community “Reddiyar”, which is a Forward Community. Since we have already held against the petitioner in legal issues (A), (B), (C) and (D) framed in this order, this Court finds no merit in this writ petition, as the petitioner has not pointed out any legal or factual infirmity in the order of State Level Scrutiny Committee. Therefore, **W.P.No.20290 of 2021 is liable to be dismissed.**

Conclusion in W.P.No.12700 of 2022 :

46.From the facts narrated earlier, this Court finds that the petitioner was keen in avoiding the verification of petitioner's community status by the State Level Scrutiny Committee. It is seen that the verification of petitioner's community status and Community Certificate started even in 1985. When the writ petition filed by the petitioner in 1985 in W.P.No.9704 of 1985 was dismissed, the petitioner preferred an appeal and of course, got an order directing the District Collector to hold an enquiry to verify whether the certificate produced by the petitioner is true and genuine. In all the writ petitions filed by the petitioner, though the petitioner was successful in



getting her service benefits, the verification process was not stalled. It is only because of pendency of writ petitions at every stage of proceedings, the verification process started in 1985 could not be completed for obvious reasons. Even in this case, the petitioner failed to cooperate for the enquiry with the Vigilance Cell calling for the enquiry. It is surprising to note that the petitioner even refused to give the particulars about her father's native, his siblings and the relatives of the petitioner. When the petitioner filed a writ petition earlier in W.P.No.16217 of 2019 to direct the employer to disburse the terminal benefits with interest, the said writ petition was disposed of by this Court with specific direction to the Scrutiny Committee to conclude the enquiry within a period of four months. Despite such direction to the petitioner to cooperate, the petitioner refused to cooperate. The conduct and attitude to give false information consciously, as reported by the Vigilance Cell, would only show that the petitioner was never interested for a fair enquiry. The certificate obtained by the petitioner from the Tahsildar, Musiri, and later from the Deputy Tahsildar, Saidapet, would itself show the attitude of the petitioner to go everywhere and get certificate wherever it is possible. The impugned order is after giving a fair opportunity



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to the petitioner and hence, cannot be assailed.

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47. On the real examination of the facts as borne out from records, this Court finds that the petitioner never wanted an enquiry in the manner as contemplated, as she has no documents to prove her community status and probably she knows that the Community Certificate produced by her is also fake. This Court has already decided the legal issues (A), (B), (C) and (D) raised by the petitioner, as against the petitioner. This Court is unable to find any irregularity or perversity in the impugned order of the State Level Scrutiny Committee. Therefore, **W.P.No.12700 of 2022 is liable to be dismissed.**

48. In view of the findings we have recorded and the conclusions we have reached on the legal issues raised by the learned counsels appearing for the petitioners in all the three cases, this Court does not find any merit in these writ petitions.

49. As a result, all these writ petitions are dismissed. However,



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there is no order as to costs. Consequently, connected miscellaneous petitions are closed.

(S.S.S.R., J.) (N.S., J.)
12.04.2024

mkn

Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

1. The Chairman,
State Level Scrutiny Committee-II,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maligai,
Secretariat, Chennai – 9.
2. The State Level Scrutiny Committee-III,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maligai, Secretariat,
Chennai – 600 009.
3. The Secretary,
Chennai Port Trust,
Chennai – 1.
4. The Deputy Conservator of Forest,
Member Secretary,
State Level Scrutiny Committee – III,
Adi Dravidar and Tribal Welfare Department,
Chennai – 600 009.



W.P.Nos.9995, 20290 of 2021 & 12700 of 2022

5. The Deputy Conservator of Forest,
Member Secretary,
State Level Scrutiny Committee – II,
Adi Dravidar and Tribal Welfare Department,
Chennai – 600 009.

6. The Deputy General Manager,
Human Resource Management Department,
Reserve Bank of India,
Fort Glacis, No.16, Rajaji Salai,
P.B.No.40, Chennai – 600 001.

7. The Regional Director,
Reserve Bank of India,
Rajaji Salai, Chennai – 600 001.



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W.P.Nos.9995, 20290 of 2021 & 12700 of 2022

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

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Common Order in
W.P.Nos.9995, 20290 of 2021 &
12700 of 2022

12.04.2024