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W.P.No.9936 of 2022

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.9936 of 2022
and
W.M.P.Nos.9661 and 21171 of 2022

N.Sundaresan

...Petitioner

Vs.

1. The Tamil Nadu State Level Scrutiny Committee-II,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavignar Maligai,
Secretariat, Chennai – 600 009.
2. The Director of Tribal Welfare,
Member Secretary, State Level Scrutiny Committee-II,
Chepauk,
Chennai – 600 005.
3. Mohan Ram,
Member Secretary,
State Level Scrutiny Committee II and
Deputy Conservator of Forests,
Adi Dravidar and Tribal Welfare Department,
Chennai – 600 009.



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4. Assistant Commissioner of Police,
Social Justice and Human Rights Unit,
Cantonment,
Trichy – 620 001.

5. UCO Bank,
Rep. by its Zonal Manager,
Zonal Officer,
169, Thambu Chetty Street,
Chennai – 600 001.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records made in Proceedings No. 493/CV-3(1)/2014-12 dated 21.03.2022 on the file of the first respondent and quash the same.

For Petitioners : Mr. L.Chandrakumar

For Respondents : Mr.P.Kumaresan,
Additional Advocate General
assisted by
Mr.Vadivelu Deenadayalan,
Additional Government Pleader
(for R1 to R4)
Ms. Aishwarya S.Nathan
(for R5)



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ORDER

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

The attempt by the Bank to verify the Community Certificate of the petitioner appears to be misplaced. Though the challenge in the Writ Petition is to the order of the Tamil Nadu State Level Scrutiny Committee-II dated 21.03.2022, wherein the Committee had come to the conclusion that the petitioner does not belong to the Scheduled Tribe Community, viz., Kondareddis and the certificate issued to him by the Tahsildar, Turaiyur, Trichy District on 25.10.1977 is not genuine, we find that it may not be necessary for us to delve into the question in view of certain factual aspects, which we notice in the case on hand.

2. The petitioner was appointed as a Clerk-cum-Assistant Cashier on 14.01.1981, based on a certificate issued by the Tahsildar, Turaiyur, to the effect that he belongs to the Kondareddis, a Scheduled Tribe Community, dated 25.10.1977. While he was in the service of the Bank, the Government



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of India, Ministry of Finance, Department of Economic Affairs, issued a Circular based on certain requests made by the Public Sector Banks and the operative portion of the said Circular, dated 12.09.1990, reads as follows:-

"The SC/ST candidates who are not willing to avail themselves of the benefits of SCs and STs in services, may be asked to furnish a Sworn Affidavit that he/she is voluntarily quitting the benefits available to him/her as an SC or ST candidates, as the case may be, and he/she will not claim such benefits in future also. After obtaining the above affidavit, he/she may be treated as a General category candidate thereafter."

3. Pursuant to the above Circular, it appears that the fifth respondent/Bank had made an offer to its employees, including the petitioner, to avail of the benefits of the Circular. It is seen that the petitioner had expressed his willingness to avail the benefits of the Circular and had filed an affidavit giving up his status as a Scheduled Tribe on 20.01.1992. The said offer was accepted by the Bank on 25.03.1992 and the Bank issued an order accepting the offer of the employee and treating him as a person belonging to the General Category from 20.01.1992. The employee was also communicated of the said decision of the Bank on



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01.04.1992.

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4. The operative portion of the letter dated 01.04.1992, reads as follows:-

“Accordingly, we now advise you that your request for change in community status from Sch.Tribe-Hindu-Kondareddis to General Category has been accepted by the bank and Will be effective from the date of your affidavit i.e. 20.01.92 quitting voluntarily the benefit available to you as an officer belonging to Sch.Tribe category in terms of instructions contained in HO.cir.CHO:PMG:34:90 dated 12.11.90.”

5. Thereafter, the petitioner attained superannuation on 18.04.2020. However, the authorities, viz., the State Level Scrutiny Committee-II, took upon itself the issue relating to verification and concluded that the petitioner does not belong to Hindu Kondareddis.

6. Mr. L. Chandrakumar, the learned counsel for the petitioner, would vehemently contend that the very verification of the certificate was uncalled for, as the Bank had accepted the offer of the employee to relinquish his status as a Scheduled Tribe and continued him as a General Category



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employee as early as in 1992.

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7. Ms. Aishwarya S. Nathan, the learned counsel for the Bank, would however contend that if the initial appointment is based on a false certificate, then the relinquishment will be of no effect. We are afraid that we cannot accept the submission of the learned counsel for the Bank. In 1991 and 1992, verification of the Community Certificate was not contemplated at all. The very process of verification commenced after the pronouncement of the Hon'ble Supreme Court of India in ***Kumari Madhuri Patil and another vs. Additional Commissioner, Tribal Development and others***, reported in ***1994 (6) SCC 241***.

8. Therefore, at the time when the offer was made to the petitioner and it was accepted by him, there was no procedure for verification of the certificates issued, and all the certificates were deemed to be valid. Even at that time, the petitioner has given up the status as a Scheduled Tribe, and therefore, he was relieved of the obligation to prove that he belongs to Scheduled Tribe Community.



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9. The very exercise of verification would be redundant and in such circumstances, having offered an olive branch to the petitioner and he having accepted the same, it will not be open to the Bank to launch upon a verification close to the retirement of the petitioner and deny him the benefits of his service, which he had already rendered. We find that the petitioner has also retired from service in the year 2020. Once the petitioner has retired, the verification would only be academic.

10. In view of the above, the Writ Petition is allowed. The proceedings of the State Level Scrutiny Committee-II dated 21.03.2022 are set aside. The Bank will pay the retiral benefits due to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. We make it clear that the certificate issued to the petitioner cannot be used by his family members to obtain another certificate to the effect that they belong to Kondareddis, a Scheduled Tribe Community. If any of the family members of the petitioner choose to apply for a certificate, they shall prove that they belong to the Scheduled Tribe Community, *de hors* the certificate



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issued to the petitioner.

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11. This Writ Petition stands allowed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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

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Index : Yes/No

Speaking order /Non Speaking Order

Neutral Citation : Yes/No

To

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