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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.12.2023

PRONOUNCED ON : 29.02.2024

CORAM:

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN**

**W.A.No.526 of 2020
and W.P.No.18677 of 2020
and WMP.No.23191 of 2020**

W.A. No.526 of 2020

Food Corporation of India,
Regional Office,
8 Mayor Sathyamurthy Road,
Chetpet, Chennai – 31.
Rep by General Manager [TN]

.... Appellant

vs.

1.H.Krishnarajan
2.The Chairman of the
State Level Scrutiny Committee
and the Secretary to Government,
Adi Dravidar and Tribal Welfare [CV2]
Department,
Fort St.George, Chennai.

... Respondents

(R2 suo-motu impleaded as per order dated
06.01.2020 made in W.P. No.27015/2019
by NAVJ)



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W.P. No.18677 of 2020

Food Corporation of India,
Regional Office,
8 Mayor Sathyamurthy Road,
Chetpet, Chennai – 31.
Rep by General Manager [TN]

.... Appellant

vs.

1.The Chairman of the
State Level Scrutiny Committee
and the Secretary to Government,
Adi Dravidar and Tribal Welfare [CV2]
Department,
Fort St.George, Chennai.

2.H.Krishnarajan

3.The Home Secretary,
Government of Tamil Nadu,
Fort St.George, Chennai.

4.The Secretary, Revenue Department,
Fort St.George, Chennai.

... Respondents

(R3, R4 suo-motu impleaded vide order
dated 07.04.2021 made in WP.18677/2020
by NKKJ, TVTSJ)



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PRAYER in W.A.No.526 of 2020: Appeal is filed under Clause 15 of the Letters Patent, to set aside the order made in WP.No.27015 of 2019 dated 06.01.2020.

Prayer in W.P.No.18677 of 2020: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the first respondent vide proceedings No.5642/CV-6/2014-12 dated 24.08.2020 and to quash the same, and consequently, direct the first respondent to reinvestigate the community status of the second respondent in the light of the earlier proceedings of the first respondent No.28168/ADWII/2015 dated 31.8.2006 in the case of H.Rani, sister of the second respondent and pass such further or other orders as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case.

For Appellant : Mr.Su.Srinivasan,
Standing counsel (in both the petitions)

For R1 : Mr.S.Doraisamy, Advocate
in W.A.No.526 of 2020 and second
respondent in W.P.18677 of 2020

For R2 : Mr.K.V.Sanjeev Kumar,
Special Government Pleader for R2 in
WA.No.526 of 2020 and first



respondent in WP.18677/2020

JUDGMENT

(Order was delivered by G.ARUL MURUGAN, J)

As the issues involved in the Writ Appeal and the Writ Petitions are interconnected, by consent both are taken up for hearing jointly and disposed of with a common order. The Writ Appeal has been preferred challenging the order dated 06.01.2020 in W.P. No.27015 of 2019, whereby the impugned order of termination from service passed by the appellant as against the 1st respondent was quashed and the appellant was directed to reinstate him into service with all attendant benefits. The writ petition has been filed by Petitioner/Employer challenging the order of the State Level Scrutiny Committee dated 24.08.2020 and to re-investigate the community status of the second respondent/Employee in the light of the earlier order of the first respondent dated 31.08.2006, in the case of H.Rani who is the sister of the second respondent.

W.A. No.526 of 2020:

The sister of the 1st respondent Tmt.Uma Maheswari, got appointed as a sweeper under the Scheduled Tribe quota in the appellant



corporation as AG.III (General) (Assistant Cadre) and while in service she died in harness in the year 1992. The first respondent herein as a dependent was given compassionate appointment on 28.10.1994. The first respondent had submitted two community certificates dated 28.06.1975 issued by Revenue Divisional Officer, Tindivanam and another community dated 09.09.1985 issued by The Tahsildar, Mambalam-Guindy Taluk certifying that the first respondent belongs to Hindu “Kattunayakan community” which is notified as Scheduled Tribe. The first respondent initially joined as AG.III (Technical) but as he did not complete B.Sc. Degree within the stipulated period from joining service, he was reverted to the post of watchman on 25.01.2006 and pursuant to the relaxation of the educational qualification by the orders of the Executive Director (Personnel), the first respondent was granted retrospective promotion from AG.II Technical to A.G.I Technical and Manager Technical, but however the order was put on hold considering the verification of community certificate.

3. Even at the time of the death of Uma Maheswari, the community certificate submitted by her was pending verification but the



same was not concluded due to her demise. Further, one H.Rani, who is the other sister of the first respondent who was also working in the appellant corporation, appointed under the ST quota has been dismissed from service by order dated 15.09.2006 for having secured employment by producing bogus community certificate. The dismissal order was challenged by H.Rani in W.P. No.11042 of 2008, which came to be dismissed by the order of this Court on 18.11.2008.

4. As the community certificate of the petitioner's own sister H.Rani was found to be bogus and that it was found that she did not belong to Hindu Kattunayakan Community which is notified as the Scheduled Tribe, but she belong to Hindu Kuravar Community, the community certificate submitted by the first respondent was also subjected to verification and the same was referred to District Collector, Villupuram for verification of genuineness which was subsequently referred to Tamil Nadu State Level Scrutiny Community/the second respondent. At this juncture, the first respondent filed W.P. No.33721 of 2017 seeking to restrain the authorities from scrutinizing the community status. The Writ Petition was ultimately dismissed as withdrawn on



19.02.2019. This action of the first respondent further strengthened the doubts of the appellant to infer that the community certificate produced by the petitioner / appellant may not be genuine in view of the community certificate submitted by her sister H.Rani having found to be bogus and therefore, in such circumstances, the appellant immediately by an order dated 26.08.2019, canceled the appointment of the first respondent and removed him from service.

5. Challenging the order of the removal from service dated 26.08.2019, the first respondent filed W.P. No.27015 of 2019 and the learned Single Judge by order dated on 06.01.2020 allowed the writ petition on the ground that the community certificate issued in favour of the first respondent had not been canceled in the manner known to law and therefore the certificate issued holds good.

6. The learned Single Judge found that when the community certificate submitted by the first respondent is pending scrutiny with the second respondent, the appellant ought to have waited for final determination of the genuineness of the certificate by the state level



scrutiny committee. But even before the second respondent took a decision, the appellant has pre-determined the issue and thus passed the order removing the first respondent from service. Therefore, the learned Single Judge holding that the order of the appellant removing the first respondent from service cannot be sustained when the community certificate submitted by him has not been canceled, allowed the writ petition quashing the order of removal from service and directed the appellant to reinstate the first respondent into service with all attendant benefits. However, the learned Single Judge also found that the community certificate granted in favour of H.Rani sister of the first respondent has been found to be bogus and the Division Bench by order in W.P. No.29432 of 2016 dated 24.08.2016 has directed for re-scrutiny and the ultimate decision in that case will have a bearing in the present case.

7. The learned Single Judge by observing that the community certificate submitted by the first respondent has become doubtful and questionable, has directed the second respondent to complete the enquiry and take a decision. Pursuant to the orders of the learned Single Judge,



the enquiry has also been concluded and second respondent/Tamil Nadu State Level Scrutiny Committee-3, by proceedings No.5642/CV-6/2014-121 dated 24.08.2020 passed orders confirming that the community certificate issued to first respondent by the Tahsildar, Mambalam-Guindy Taluk dated 09.9.1985 certifying that he belongs to Hindu Kattunayakan community which is Scheduled Tribe is genuine.

8. When the first respondent has been appointed as early as on 28.10.1994 and is in service and the community certificate submitted by the first respondent was also pending verification before the State Level Scrutiny Community, the order of removal from service dated 26.08.2019 issued by the appellant even before the final decision was taken by the State Level Scrutiny Committee cannot be sustained. The learned Single Judge has rightly come to the conclusion that the order of removal from service cannot be sustained when the community certificate issued in favour of the first respondent remain intact and this approach of the learned Single Judge cannot be found fault with and does not require any interference. In any event now that the enquiry has been concluded by the State Level Scrutiny Committee and the committee by order dated



24.08.2020 has found that the community certificate submitted by the first respondent is genuine and that he belongs to Hindu Kattunayakan community. As such the order of removal from service issued by the appellant cannot be sustained and the appellant are bound to implement the order of the learned Single Judge, by reinstating the first respondent into service with all attendant benefits. Therefore, the present appeal has to necessarily fail and accordingly dismissed.

W.P. No.1877 of 2020

9. The petitioner who is an employer of the second respondent has come up with the present writ petition, challenging the orders of the State Level Scrutiny Committee/first respondent in proceedings No. 5642/CB-6-2014-12 dated 24.08.2020 and for further direction to re- investigate the status of the second respondent in the light of the earlier proceeding of the first respondent dated 31.08.2006 in the case of H.Rani who is the sister of the second respondent.

10. The petitioner has provided employment for two sisters of the second respondent, one Uma Maheswari and another H.Rani. Both of them were provided with employment under Scheduled Tribe quota based



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on the community certificates submitted by them certifying that they belong to Hindu Kattunayakan Community which is notified as Scheduled Tribe. When the community certificate submitted by Uma Maheswari was pending scrutiny, she died in harness in the year 1992 and the second respondent being the dependent brother was provided with compassionate appointment on 28.10.1994 based on the community certificate submitted by him. As far as the enquiry conducted in respect of the community certificate of H.Rani, State Level Scrutiny Committee by order dated 31.08.2006 has concluded that the second respondent's sister H.Rani does not belong to Hindu Kattunayakan community and the community certificate issued by the R.D.O Tindivanam in her favour was canceled.

11. In such circumstances, when the community certificate issued in favour of H.Rani sister of the second respondent was found to be bogus by the State Level Scrutiny Committee, the decision taken by the same State Level Scrutiny Committee holding that the community certificate submitted by the second respondent is genuine, runs contrary to their own order and therefore the employer has come up with the writ petition



challenging the same seeking for re-verification of the community certificate in the light of the decision taken in the earlier order in respect of sister H.Rani.

12. Heard Mr.Su.Srinivasan, learned counsel for the appellant / petitioner, Mr.S.Duraisamy, learned counsel appearing for the first respondent in Writ Appeal and second respondent in Writ Petition



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and Mr.K.V.Sanjeev Kumar, Special Government Pleader for the second respondent in Writ Appeal and first respondent in Writ Petition.

13. Mr.Su.Srinivasan, learned counsel appearing for the appellant /petitioner submitted that two sisters of the first respondent Uma Maheswari and H.Rani were appointed in the service of the appellant corporation under the ST quota, based on the community certificates submitted by them certifying that they belong to Hindu Kattunayakan Community which is notified as Scheduled Tribe. As bogus certificates were submitted to secure employment in public authorities claiming to be SC/ST, wherever they had doubts the certificates were sent for scrutiny to ascertain the genuineness. In the process, the community certificates submitted by Uma Maheswari and H.Rani were also sent to ascertain for genuineness of the certificates. While the enquiry was pending, Uma Maheswari died in harness in the year 1992 and the first respondent herein being the dependent was provided with compassionate appointment on 09.11.1994 and he was appointed to the post of A.G. III (Technical) in the appellant corporation. The first respondent has submitted two community certificates dated 28.06.1995 and 09.09.1995



issued by the R.D.O. Tindivanam and Tahsildar, Mambalam Guindy Taluk, respectively certifying that he belong to Hindu Kattunayakan community which is notified as scheduled tribe. Even though, the enquiry in respect of Uma Maheswari was not completed due to her death, the State Level Scrutiny Committee after enquiry by order dated 31.08.2006 has held that H.Rani does not belong to Kattunayakan community which falls under S.T. category. Subsequently, the community certificate issued by R.D.O., Tindivanam dated 28.06.1995 was canceled.

14. The learned counsel further submitted that pursuant to the order of State Level Scrutiny Committee H.Rani, sister of the first respondent was dismissed by order dated 15.09.2006. The learned counsel further submitted that the State Level Scrutiny Committee has gone into several details and found that H.Rani sister of the first respondent belong to 'Kuravar' community and that in all the school certificates it has been clearly entered as Naickker which comes under Backward Community and has therefore concluded that the community certificate issued by R.D.O. Tindivanam dated 05.06.1975 was incorrect and thereby canceled the community certificate and further the State



Level Scrutiny Committee has also directed to initiate appropriate disciplinary action against the officer who issued the community certificate and also against the certificate holder. Pursuant to which by order dated 15.09.2006, H.Rani sister of the first respondent was terminated from service. In a writ petition filed by H.Rani, the Division Bench by order dated 24.08.2016 was pleased to direct the authorities to do the needful for issuance of the genuineness within two months from the date of receipt of the copy of the order. Till date, the re-verification of the genuineness of the community certificate of H.Rani is pending with the second respondent State Level Scrutiny Committee, which the learned Single Judge has also observed that it will have a bearing in the present case.

15. The learned counsel further submitted that the appellant corporation being the public authority is duty bound to ensure that only the eligible persons are provided with the employment under the special categories particularly under SC/ST quota which is a right guaranteed for them under the Constitution and the unscrupulous persons cannot be allowed to usurp the appointment by submitting bogus certificate and



knock their benefits.

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16. The learned counsel further submitted that when the community certificate issued in favour of a sibling H.Rani having being found to be bogus, it leads to undoubtful fact that the certificate submitted by the first respondent is also bogus. The first respondent does not belong to Kattunayakan community but on the contrary belong to Kuravar community as has been held in the order of the first respondents' sister H.Rani. The committee has not taken into account of the detailed findings of the District Level Committee wherein it has been clearly recorded that the first respondent does not belong to Hindu Kattunayakan community, a Scheduled Tribe but the same has been simply not considered. The State Level Scrutiny Committee, has only taken note of certificates of the three brothers which were never put to test and scrutiny and committee has erroneously passed the order, by merely relying on those certificates. When the community certificate produced by the first respondent own sister H.Rani has been scrutinized by the competent authority/State Level Scrutiny Committee and has found that the community certificate is bogus, the impugned order cannot be sustained. Further, the enquiry



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report submitted by Director of Tribal Welfare clearly holds that the 1st respondent does not belong to Hindu Kattunayakan community. In such circumstances, the learned counsel submitted that in interest of justice, the certificate of the first respondent has to be re-verified along with the re-verification enquiry of H.Rani sister of the first respondent which is already pending with the second respondent State Level Scrutiny Committee.

17. Mr. S.Duraisamy, the learned counsel appearing for the employee/second respondent submitted that when the second respondent had secured employment as early as in 1994, the certificates cannot be put to test repeatedly at this length of time. When the certificate of the second respondent has been scrutinized by the competent authority following the procedure as contemplated in the directions issued in ***Kumari Madhuri Patil's*** case reported in ***1994(6) SCC 241*** and the committee has come to a definite conclusion and passed order holding that the community certificate submitted by the second respondent is genuine and that he belongs to Kattunaicken community which is scheduled tribe, the entire issue comes to rest and nothing survives for



further adjudication in this issue.

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18. The learned counsel further submitted that the petitioner herein being the employer is not an aggrieved party as contemplated under the Writ Rules to challenge the orders passed by the State Level Scrutiny Committee under Article 226 of the Constitution of India. The learned counsel further submitted that when the petitioner is not the aggrieved person, the writ petition is not maintainable and it is liable to be dismissed and relied on two decisions in W.P. No.6796 of 2021 dated 02.11.2022 and another in W.P. No.1932 of 2022 dated 03.02.2022 passed by two other co-ordinate benches of this Court.

19. The learned counsel also submitted that the order passed in H.Rani has not yet attained finality and it is pending re-verification before the State Level Scrutiny Committee and that cannot be taken as the basis for considering the case of the second respondent. The competent authority by following the procedures contemplated has conducted enquiry by affording opportunities to all the parties and that they arrived at a reasoned decision that the community certificate issued in favour of



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second respondent is genuine and he belongs to Hindu Kattunayakan community. Therefore, the learned counsel prays for dismissal of both the Writ Appeal and Writ petition.



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20. The learned Special Government Pleader submits that the 1st respondent/State Level Scrutiny Committee has undertaken the enquiry and passed orders concluding that the community certificate of the second respondent is genuine and the same has become final. The Special Government Pleader also reiterated that the petitioner who is the employer not being the aggrieved party cannot maintain the writ petition by challenging the orders of the State Level Scrutiny Committee. The Special Government Pleader by referring to the counter affidavit submitted that as and when the Vigilance report is received from the Director of Tribal Welfare, Chennai, the State Level Scrutiny Committee, will immediately proceed with enquiry in case of H.Rani in accordance with law and a final decision may be taken and also further referring to para 17 of the counter affidavit submitted that in the instant case also, if this Court refers the second respondent i.e., Thiru Krishnarajan case to the Vigilance Cell for re-enquiry the State Level Scrutiny Committee, shall take appropriate action accordingly and the matter will be re-examined and analyzed in all aspects and appropriate speaking order in accordance with law will be issued.



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21. Heard the learned counsel on rival side and perused the documents on record.

22. It is the case where six of the family members have secured employment in public establishment under the S.T. category by producing the community certificates issued in their favour certifying that they belong to Hindu Kattunayakan community which is notified as Scheduled Tribe. Three of the family members H.Chinnadurai, H.Chandrasekaran and H.Ramesh have secured employment in other Government of India, establishments and their certificates were never put to test and they also retired from service. Two persons Uma Maheswari and H.Rani secured employment in the petitioner corporation by producing the community certificate issued in their favour certifying as Kattunayakan community under the ST category. The genuineness of the two community certificates submitted by Uma Maheswari and H.Rani were referred for scrutiny. However Uma Maheswari died in harness in the year 1992 and eventually that enquiry was not concluded. On her death, the second respondent H.Krishnarajan was appointed as A.G.III (Technical) on 09.11.1994 in the petitioner corporation. At the time of appointment he



has submitted the community certificate dated 28.06.1975 issued by R.D.O. Tindivanam and community certificate dated 09.09.1985 issued by The Tahsildar, Mambalam-Guindy Taluk certifying that he belongs to Hindu Kattunayakan community. As he was appointed under compassionate appointment due to the death of his sister who was recruited against ST quota and he claimed for further promotion, it was necessitated for the petitioner corporation to refer the matter for scrutiny of the community certificate on 07.01.2005. Immediately on coming to know about the verification of the community status, the second respondent Krishnarajan filed W.P. No.37039 of 2006 and obtained interim order on 29.09.2006 restraining the authorities from verifying the community status. While so, the petitioner corporation proceeded to verify the community status of H.Rani, the sister of the second respondent who was also appointed under the ST quota in respect to community certificate dated 28.06.1975, issued in her favour by the R.D.O. Tindivanam. Immediately, H.Rani also filed W.P. No.35754 of 2003 challenging the show cause notice, which was ultimately dismissed and the certificate was sent for verification to the State Level Scrutiny Committee.



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23. On verification of the certificate submitted by H.Rani, the State Level Scrutiny Committee, by order dated 31.08.2006 concluded that H.Rani does not belong to Kattunayakan community which falls under ST category and consequently the community certificate issued by R.D.O. Tindivanam dated 28.06.1975 was canceled. Para 3 to 6 of the order dated 31.08.2006 passed by the State Level Scrutiny Committee in respect to H.Rani is extracted hereunder for easy reference.

“3. Tmt. H.Rani appeared before the State Level Scrutiny Committee on 28.07.2006 and stated that her father and her husband belong to Kattunayakan community. During the enquiry she has produced an unauthenticated Xerox copy of letter No.K.Dis.268240/76 dated 20.01.77 issued from the office of the District Collector, South Arcot to the Secretary, Tamil Nadu Public Service Commission stating that on the strength of the statement of Village Officers the candidate (Thiru H.Chinnadurai) belongs to Kattunayakan. Since, it is an unauthenticated copy and she has not produced any valid documents to substantiate her claim it cannot be accepted as evidence to prove her community status. Further the Village Administrative Officer, Gidangal,



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Tindivanam before the Sub Collector, Tindivanm on 26.03.2005 has given statement that Tmt H.Rani D/o.Harikrishnan resided at Varadappa Naicken street some 30 years back and now settled at Chennai belongs to Kuravar community and her relatives are still residing in the above street belongs to Kuravar community.

4. The committee carefully examined the statements furnished by Tmt.H.Rani, the records of the District Collector, Villupuram. It is seen from the records that the impugned Community Certificate was issued by the Revenue Divisional Officer, Tindivanam at his own knowledge without conducting proper verification since, the certificate has no file number in the application made to St.Philomena's Girls' High School, Tindivanam for admission in 9th standard as Naicken, Backward against the column for mentioning the caste status. Similarly school Transfer Certificate bearing Nos.1637 and 243 dated 04.06.1970 and 15.05.1972 and the Record Sheet dated 15.05.1972 relates to H.Rani discloses the fact that she belongs to Naicker community. Further, the School Transfer Certificate bearing No.2911 relates to Tmt.H.Rani issued on 28.05.1975 having the entry against the community column as Naicker – Kuravar. Naicker



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name finds place with some other community name which are included in Backward Class such as Thuluva Naicker, Vetakara Naicker, Ukkirakula Kshatriya Naicker, Urikara Naicker and Naikkar in Kanniyakumari and Shengotta Taluk of Tirunelveli District. The people who are called as Naicker and Kattunayakan community people are entirely different communities.

5. Considering all the above facts the committee concludes that this community certificate issued in favour of Tmt. H.Rani by the Revenue Divisional Officer, Tindivanam on 05.06.1975 was incorrect and therefore is liable to be cancelled. The committee, accordingly, hereby cancels the impugned Community Certificate issued in favour of Tmt H.Rani.

6. The District Collector, Villupuram is directed to initiate appropriate criminal and disciplinary action against the Officer who issued the incorrect Community Certificate and also against the certificate holder.”

24. The Writ Petition filed by H.Rani in W.P. No.32951 of 2006 challenging the order of the State Level Scrutiny Committee also came to be dismissed. In view of the cancellation of the community certificate,



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the petitioner corporation by an order dated 15.09.2007 terminated the service of H.Rani. The dismissal order was also challenged in W.P. No.11042 of 2008 which came to be dismissed. H.Rani, thereafter filed another W.P. No.29432 of 2016 praying to consider the representation for re-verification of the community certificate in the light of G.O. Ms.No.106 dated 15.10.2012 and the Division Bench by order dated 24.08.2016 has directed the authorities to do the needful with regard to re-verification of the certificate in respect to H.Rani within two months from the date of receipt of a copy of the order. Even though, the order was passed on 24.08.2016 and nearly 7 years have been lapsed, till date, the enquiry in respect to re-verification of H.Rani is still pending with State Level Scrutiny Committee.

25. After the writ petition filed by 2nd respondent in WP. No.33721 of 2017 was withdrawn, the petitioner herein passed the orders removing the first respondent from service, by taking into account the cancellation of community certificate of H.Rani. The termination order was the subject matter of the writ petition which came to be allowed and the writ appeal therefrom has also been dismissed in this order.



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26. After the orders were passed by the learned Single Judge quashing the termination of service as against the 2nd respondent and directed the State Level Scrutiny Committee to complete the enquiry in respect to genuineness of the community certificate, the State Level Scrutiny Committee by impugned order dated 24.08.2020 held that the 2nd respondent H.Krishnarajan belong to Hindu Kattunayakan community, under ST category and that the community certificate issued by Tahsildar, Mambalam, Guindy Taluk dated 09.09.1995 is genuine.

27. From the impugned order, it is seen that a detailed enquiry has been conducted and the Director Tribal Welfare has forwarded the report dated 22.03.2019 to the State Level Scrutiny Committee. Para – 5 of the impugned order dated 24.08.2020 is extracted hereunder, for easy reference.

“5. The Director Tribal Welfare has forwarded the report of the Deputy Superintendent of Police, Villupuram, vide Letter RC.No.TD/B2/4333/2016, dated 22.03.2019. The Deputy Superintendent of Police, in his report has stated that based on the spot enquiry, deposition of witness, report of the



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Anthropologist the individual does not belong to Hindu “Kattunayakan” Scheduled Tribe Community. He observed as follows:

i) In the Register of Births maintained in the Tindivanam Municipality during the month of March 1964, it was registered that Thiru Harikrishnan who is the father of the individual Thiru H.Krishnarajan, his religion and caste are recorded as Hindu-Naidu.

ii) The Headmaster, Muslim Middle School, Tindivanam has certified that based on the Admission and Withdrawal Register the individual Thiru H.Krishnarajan S/o. Thiru Harikrishnan studied VI std in their School (Admission No.3426) and his religion and caste are recorded as Hindu “Kuravar”.

iii) The Headmaster p.J.Gupta's Primary School, Ambattur, Chennai – 53 has certified that based on the Admission and Withdrawal Register, the individual Thiru H.Krishnarajan S/o.Thiru Harikrishnan studied VII-VIII std in their School during 1976-78 and his religion and caste are recorded as Hindu-”Kuravar”.

iv) In the Transfer Certificate (Admission No.847, T.C. No.372) issued by the Headmaster, Singaram



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Pillai Higher Secondary School, Villivakkam, Chennai – 49 to H.Krishnarajan S/o. Thiru.Harikrishnan and has studied XI to XII Standard during 1981-83, his religion and caste are mentioned as Hindu- "Kuravar".

v) The Principal, Pachaiyappa's College, Chennai – 30 has certified that the individual Thiru H.Krishnarajan S/o.Thiru Harikrishnan has studied B.Sc (Botany) during 1986-89 and based on the Admission Register, his caste is recorded as Scheduled Tribe community.

vi) The Tahsildar, Mambalam-Guindy Taluk, Chennai – 78 in his letter dated 29.11.2018 addressed to the Assistant Commissioner of Police has stated that the original records of the above said Community Certificate are not found in their record room.

vii) The Anthropologist along with the team of Government official made a field enquiry at Mettu Theru, Vepampattu, Tiruvallur District and studied the History, origin of the Kattunayakan Tribes, their food habits, clan details, marriage, birth and other ceremonies. Based on the above facts she reported that the community claim of Thiru H.Krishnarajan S/o.Thiru Harikrishnan as



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*“Kattunayakan” Scheduled Tribe of Tamil Nadu
is Not Genuine.”*

28. However, the State Level Scrutiny Committee has conducted enquiry and ultimately passed orders holding that the 2nd respondent H.Krishnarajan belongs to Kattunayakan community mainly relying on the fact that three of his brothers H.Chinnadurai H.Chandrasekaran and H.Ramesh have worked and retired from services of the Government of India, establishments without any interruption who had secured employment under ST category. The fact remains that the certificates of the three brothers were never put to test but, whereas the certificate of H.Rani who is own sister of H.Krishnarajan was found to be bogus and the State Level Scrutiny Committee came to the definite conclusion that H.Rani does not belong to Kattunayakan community, based on which her service has been terminated and upheld by the orders of this Court. Further, when the Director Tribal Welfare has forward the report containing the details referred supra, wherein it has been clearly held that all the school records of H.Krishnarajan and the report of the Anthropologist clearly reveals that he does not belong to Hindu



Kattunayakan community and that in all the certificates it is mentioned as Hindu Kuravar, those aspects has not been considered and dealt with in the impugned order passed by the second respondent/State Level Scrutiny Committee.

29. The Hon'ble Supreme Court in the ***Kumari Madhuri Patel*** case has specifically held that the Courts has to see whether the committee has considered all the relevant material placed before it or has not applied its mind to relevant facts which have led the Committee to ultimately record the finding. Each case must be considered in the backdrop of its own facts. The Hon'ble Supreme Court has further held that the Courts have Constitutional duty and the responsibility in exercise of the power of judicial review, to see that the constitutional goals set down in the Preamble, the Fundamental Rights and the Directive Principles of the constitution are achieved.

30. The perusal of the impugned order shows that the committee has not considered and dealt with in respect of the specific findings in the report submitted by the Director Tribal Welfare. The committee has also



not taken note of the orders passed in respect of the first respondent sister H.Rani where the same committee has concluded that H.Rani does not belong to Kattunayakan community.



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31. The framers of our Constitution thought it fit to provide reservation for employment opportunities to the oppressed class for securing social justice. The rights guaranteed under the Constitution for the people who are eligible to secure employment under the quota provided for them cannot be allowed to be usurped, by the unscrupulous persons by submitting bogus and false certificates claiming to be the member of that category. The petitioner corporation being a public authority has to ensure that the employment opportunities provided under the quota ear marked for particular category is not taken by people by playing fraud and thereby depriving the benefits to the eligible class.

32. Coming to the argument of the learned counsel for the respondent that the writ petition is not maintainable as the employer is not an aggrieved person, we are not inclined to accept that proposition. The employer provides employment under a particular quota in public selection, based on the community certificate submitted by the candidates. When the community certificate is declared as genuine by the committee, contrary to its own order declaring the community certificate of the sibling to be bogus, then the same cannot be allowed to go un-



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challenged. There cannot be an universal rule that in all cases, the employer cannot maintain a writ petition challenging the committee order.

33. It will be useful to refer to the orders passed by a Division Bench in **Union of India Versus Tamil Nadu State Level Scrutiny Committee, Chennai and another in W.P. No.39053 of 2016 dated 18.04.2017**, wherein it is held that the orders passed by the authority cannot go unchallenged and the employer is an aggrieved person and is entitled to maintain the writ petition challenging the orders passed by the scrutiny committee. Paragraph 22 of the order is usefully extracted hereunder,

“22. The order to be made final and conclusive should be subjected to judicial review. Since the status claimed is one granted by the constitution, the Courts should be very vigilant. This is not an adversarial litigation. The petitioner only wanted this Court to verify and satisfy as to whether the Tribunal was correct in its decision making process. When there are prima facie materials produced by the petitioner to show that documents indicating a different community status were not considered by the State Level Scrutiny Committee, the Court cannot be a silent spectator. The Courts must discharge its constitutional function. The Writ Petition of this nature is not liable to be dismissed solely on the ground of maintainability. The Court should exercise its



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constitutional function notwithstanding the fact that the Writ Petition was at the instance of the employer. The employer in a case of this nature is like a petitioner in a contempt petition, citing the attention of the Court with regard to the contempt committed by the opposite party. Thereafter, the issue of contempt would be between the Court and the contemnor. The present Writ Petition filed by Railways should be considered only in the said line. It is for this Court to consider the materials and arrive at a decision as to whether the State Level Scrutiny Committee was correct in upholding the community status claim of the second respondent, notwithstanding the contra materials produced by the Railways.

34. Further even though a Division Bench by orders dated 02.11.2022 in WP. No.6796 of 2021 has dismissed the writ petition holding that the association cannot have any locus standi to maintain the writ petition in respect of the orders passed by the scrutiny committee and further has observed therein that even the employer cannot maintain the writ petition, subsequently the Division Bench by **order dated 29.04.2023 in Review Petition No. 29 of 2023** in the case of **All India Scheduled Castes/ Scheduled Tribes/ Buddhists LIC Employees Welfare Association, South Zone, LIC India Versus The Tamil Nadu State Level Scrutiny Committee and others**, while dismissing the review petition has observed that though the employer can maintain a writ petition as per the orders passed by the Division Bench in Union of



India's case, a 3rd party who is not an employer cannot maintain the writ petition. Paragraph 4 and 5 of the order is extracted hereunder for easy reference,

“4. We are unable to accept both the submissions of the learned counsel as a ground for review. As regards first submission is concerned, the Division Bench while holding that an appeal at the instance of Railways would be maintainable, has clearly held that being an employer, the Railways can question the decision of the State Level Scrutiny Committee.

5. But, in the case on hand, the petitioner is neither an employer nor the certificate holder. It is a third party which wants to interfere in the relationship between the employer and employee. Hence, we do not think that the basis on which the Division Bench held that writ petition by the employer would be maintainable in the given circumstances cannot be extended to a third party also.”

35. As far as the orders dated 03.02.2022 passed by a Division Bench in WP No. 932 of 2022, cited by the 2nd respondent counsel is concerned, it is in respect of the issue where the employer challenged the impugned order on the ground that they were not issued any notices by the scrutiny committee and there the Division Bench held that the employer need not be issued with any notice by the scrutiny committee while deciding the validity of the genuineness of the certificates. As such the decision cited above is not relevant to the facts of the present case.



Therefore, we do not have any hesitation to hold that in appropriate cases the employer can maintain a writ petition challenging the orders passed by the committee.

36. In the present case the certificate of a sibling working in the same establishment has been found to be bogus and the community certificate was canceled holding that she does not belong to Kattunayakan community whereby the service of the sibling came to be terminated and up-held by this court. But thereafter the same scrutiny committee has passed the impugned order in respect of other sibling holding that the community certificate is genuine and that he belongs to Kattunayakan community. In the facts and circumstances of this case, the employer is an aggrieved person as the order passed by the committee is only put to judicial review. Therefore in view of the decisions cited supra, the writ petition filed by the employer challenging the impugned order is maintainable and accordingly we hold so. In the interest of justice we propose to pass the following orders in the Writ Appeal and the Writ Petition.



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(1) W.A. No.526 of 2020 is dismissed confirming the orders of the learned Single Judge. The appellant / petitioner is directed to reinstate the first respondent H.Krishnarajan into service with all attendant benefits within a period of four weeks from the date of receipt of a copy of this order.

(2) The State Level Scrutiny Committee is directed to receive the report from the Director of Tribal Welfare, Chennai within a period of two weeks and thereafter pass final orders on the re-verification of the genuineness of community certificate in respect of the enquiry pending with H.Rani, within a period of four weeks from the date of receipt of a copy of the report.

(3) The State Level Scrutiny Committee is also directed to re-verify the genuineness of the community certificate issued in favour of H.Krishnarajan along with the enquiry to be conducted in respect of his sibling H.Rani and conclude the proceeding and pass final orders within a period of six weeks from the date of receipt of a copy of this order.



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(4) Based on the orders to be passed by the State Level Scrutiny Committee, the rights of the petitioner corporation is reserved and they are at liberty to take appropriate proceedings.

31. With the above directions, the Writ Appeal stands dismissed and the writ petition stands disposed of and connected Miscellaneous petitions are closed. No costs.

[R.S.K., J]

[G.A.M., J]

29.02.2024

drl

Index : Yes / No

Speaking / Non-speaking
Neutral Citation : Yes / No



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To

1. The Additional District Judge,
(Fast Track Court), Ranipet
2. The General Manager (TN)
Food Corporation of India,
Regional Office,
8 Mayor Sathyamurthy Road,
Chetpet, Chennai – 31.
3. The Chairman of the
State Level Scrutiny Committee
and the Secretary to Government,
Adi Dravidar and Tribal Welfare [CV2]
Department,
Fort St.George, Chennai.



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R.SURESH KUMAR, J
AND
G.ARUL MURUGAN, J.

drl

W.A.No.526 of 2020
and W.P..No.18677 of 2020



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29.02.2024