



W.P.No.12118 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on 10.11.2023

Order delivered on 08.03.2024

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.12118 of 2023
and
W.M.P.No.11963 & 11964 of 2023

N.Manoharan

.... Petitioner

vs

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

2. The Deputy General Manager,
Circle Office, Canara Bank,
No.524, Anna Salai,
Teynampet,
Chennai - 18.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
to issue a Writ of Certiorari to call for the records of the 1st respondent in its
proceedings No.40458/CV-4(2)/2007-12 dated 04.03.2021 and consequential



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order of the 2nd respondent in its Ref.CNC HRMS 104 2023 SR dated 25.01.2023 and quash both the orders.

For Petitioner : Mr.V.Vijayshankar

For Respondents : Mrs.Mythreyechandru
Special Government Pleader for R1
Mr.S.Makesh for R2

ORDER

(Order of the Court was made by J.NISHA BANU, J.,)

This Writ petition has been filed challenging the order dated 04.03.2021 of the 1st respondent/State Level Scrutiny Committee cancelling the caste certificate of the petitioner and the consequential order of the 2nd respondent dated 25.01.2023, by which, the appointment of the petitioner was cancelled and consequently, the payment of pension of the petitioner had been stopped.

2. The crux of the case of the petitioner is that he obtained community certificate from the Tahsildar in 1976 and joined service as Clerk in Canara Bank in June,1981. In the year 2007, the District Collector issued notice for enquiry into the petitioner's caste status. The petitioner challenged the same by filing a writ petition in W.P.No.14756/2007 and the said writ petition along with batch of writ petitions was allowed on 01.04.2008 by observing that only the State Level Scrutiny Committee is the competent authority to make



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verification of the claims of Scheduled Tribes. However, for 12 years, no notice or summons was served on the petitioner. On 03.12.2019, a notice was issued by the 1st respondent committee calling the petitioner for enquiry . On 09.12.2019, the petitioner sent reply that the Vigilance Cell report was not received by him but a copy pertaining to some other individual was sent which was returned by him on 13.06.2019. The petitioner wanted the 1st respondent to furnish the report of the Vigilance Cell. However, the copy of the report was not received by the petitioner. The petitioner attained superannuation on 31.05.2020. All the terminal benefits were sanctioned and paid and from June 2020, the petitioner was paid monthly pension also. However, in the month of January 2023, the monthly pension was not received by the petitioner. During January/February 2023, the petitioner went to Australia and therefore, he could not make enquiry. On 25.01.2023, the 2nd respondent Bank sent a mail informing the petitioner that his caste certificate was cancelled by order dated 04.03.2021 and therefore, his appointment was being cancelled. Subsequently, on 17.03.2023, the petitioner returned from Australia and thereafter, obtained the copy of the order dated 04.03.2021 passed by the 1st respondent committee. Neither the notice nor the order were received by the petitioner. Hence, the present writ petition seeking the aforesaid relief.



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3. (i) Learned counsel for the petitioner would submit that the entire proceedings are invalid. The Hon'ble Supreme Court in the judgment in *Madhuri Patil's case*, and the Government in G.O.Ms.No.108 dated 12.09.2007 and G.O.Ms.No.106 dated 15.10.2012 had set out the procedure to be followed in making verification into the claims of SCs and STs. The manner in which the proceedings have been conducted by the 1st respondent committee in the present case would reveal that there has been violation of procedure which vitiates the entire proceedings. Even a copy of the Vigilance Cell report was not furnished to the petitioner. As per G.O.Ms.No.106 dated 15.10.2012, a copy of the said report is to be furnished along with a show cause notice for the individual to appear for enquiry. In fact, this report forms the foundation for all the subsequent actions of the committee. Non-furnishing of the report to the petitioner is in contravention of the principles of natural justice. Even the final order passed by the Committee on 04.03.2021 was not received by the petitioner. After the 2nd respondent Bank stopped his pension, the petitioner came to be informed of the order passed by the 1st respondent committee, cancelling his caste certificate.

(ii) Learned counsel for the petitioner would submit that the only notice



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received by the petitioner was dated 03.12.2019, by which, he was called for enquiry on 16.12.2019. The petitioner sent a reply on 09.12.2019 by registered post informing the 1st respondent committee that the very Vigilance report has not been received by him and wanted them to forward a copy so that he could make objections. The said letter was duly received by the 1st respondent but there was no reply. No notice was received by the petitioner from the 1st respondent committee. The notice for hearing on 16.12.2020 was not received by him. The report of the Anthropologist was also not furnished to him. Without giving an opportunity to the petitioner, the 1st respondent has summarily concluded the enquiry. The entire proceedings are thus, flawed and deserved to be set aside.

(iii) Learned counsel would further submit that as per OM. dated 25.05.2005, verification into the claims of SC/ST has to be made at the earliest point of time and not belatedly and by this OM certain directions were issued to the effect that verification was not to be made routinely in cases of persons appointed before 1995. He would further submit that none of the documents including those of his cousins who were issued with caste certificates were taken into account. Without giving opportunity, materials have been gathered and relied upon and had come to an adverse conclusion.



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Therefore, he would state that the entire proceedings are invalid.

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4. (i) Per contra, the learned Special Government Pleader would submit that only based on the request of the petitioner's employer, the verification on the genuineness of the Kondareddis Scheduled Tribe community Certificate of the petitioner had been carried out and the entire enquiry was conducted by the State Level Scrutiny Committee following the procedures contemplated in G.O.Ms.No.108 dated 12.09.2007 and G.O.(2D).No.106 dated 15.10.2012.

(ii) Learned Special Government Pleader would further submit that the enquiry had been scheduled by the State Level Scrutiny Committee on 21.10.2019, 16.12.2019 and 16.12.2020. Thus, reasonable opportunity has been provided to the petitioner to substantiate his community claim but he failed to prove the same and was absent on those days. She would further submit that the Anthropologist associated with the District Level Vigilance Committee has examined in detail and stated that the petitioner has not revealed any cultural aspect of the community Kondareddis. All his family members married among the other caste group. The migratory routes or the original native of the community to find out the details about the culture was not furnished by the petitioner. The marriage pattern is completely different.



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Hence, the petitioner could not substantiate his claim as Kondareddis.

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(iii) Learned Special Government Pleader would further submit that though the Parliamentary Committee on the welfare of SC/ST in its letter dated 24.12.2020 has directed to verify the Scheduled Tribe Caste certificate in respect of only those employees who were appointed after the year 1995, but revised instructions were issued by the Parliamentary committee on the Welfare of SC/ST in its letter dated 04.02.2021 to get the matter examined in the light of the existing instruction and decide the matter judiciously and objectively by following due process of law without inordinate delay to protect the legitimate interest of tribals of Tamilnadu. Since the revised instructions surpasses the earlier instructions, verification of Scheduled Tribe Community status of all the employees appointed prior to 1995 have been undertaken. The concerned Deputy Superintendent of Police has submitted the Vigilance Cell report to State Level Scrutiny Committee through Director, Tribal Welfare. As the report is not in favour of the petitioner's community claim, the Director, Tribal Welfare issued show cause notice dated 25.04.2019 and 29.05.2019. The petitioner did not reply to the show cause notice. Thus, the State Level Scrutiny Committee scheduled to conduct enquiry on 21.10.2019, 16.12.2019 and 16.12.2020 but the petitioner was absent on those days and failed to



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prove his community status.

(iv) Learned Special Government Pleader would further submit that the burden of proof lies with the petitioner as he failed to submit substantial evidences to confirm his Kondareddis community status as per the judgment issued by the Hon'ble Supreme court in *Anand Vs. Committee for Scrutiny and Verification of Tribe Claims*, reported in 2012(1) SCC 113. Hence, she would pray to dismiss the present writ petition.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. It is seen from the records that the petitioner obtained community certificate in the year 1976 itself from the Tahsildar, Avanashi, stating that he belongs to Kondareddis(ST) community. He joined service as Clerk in Canara Bank/2nd respondent bank in June, 1981 and attained superannuation on 31.05.2020, after completing 39 years of service. He had received all terminal benefits including pension, gratuity, earned leave encashment etc.

7. The petitioner had filed a writ petition in the year 2007 in W.P.No.14756 of 2007 against the notice issued by the District Collector for



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conduct of verification to his community status and the said writ petition along with batch of cases was allowed by order dated 01.04.2008 by observing that the State Level Scrutiny Committee was the competent body to make verification into the claims of Schedule Tribes and the District Collector has no jurisdiction. However, the State Level Scrutiny Committee did not enquire into the petitioner's community status for nearly 12 long years thereafter.

8. The State Level Scrutiny Committee, by notice dated 03.12.2019, wanted the petitioner to appear for enquiry on 16.12.2019 and directed him to appear along with the reply to the show cause notice dated 25.04.2019 and the notice dated 29.05.2019 of the Director of Tribal Welfare. It is the contention of the 1st respondent that the petitioner was given several opportunity to substantiate his case by issuing show cause notice but he did not appear for enquiry. According to the petitioner, he had sent reply dated 09.12.2019 and informed that the show cause notice sent to him pertained to another individual and on instructions of the Directorate office, the petitioner returned the same on 13.06.2019 with a request to forward the Vigilance report in his case so that he could make his objections to the said report but so far he did not receive the copy of the Vigilance Cell report to submit his objections.



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Thereafter, the petitioner attained superannuation on 31.05.2020 from the 2nd respondent bank in accordance with rules and regulation and his pension was released and other terminal benefits were given to him.

9. It is pertinent to point put that the petitioner had served in the 2nd respondent Bank for 39 years and retired from service in the year 2020. The petitioner is now 63 years old. As of now, no purpose will be served in verifying the community status of the petitioner. He was sanctioned with pension, gratuity and other benefits. Subsequently, based on the cancellation of his community certificate, the authorities have stopped payment of pension from December 2022 payable in January, 2023. We are of the view that at this stage, cancellation of the petitioner's community certificate is uncalled for. The Government of India have issued guidelines periodically mandating all employers and authorities to undertake verification at the earliest point of time preferably at the time of one's entry into service. In the present case, the petitioner has completed 39 years of unblemished record of service and retired on 31.05.2020.

10. It is pertinent to point out that the Hon'ble Apex Court and various



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High Courts have time and again stressed that verification after retirement is a wasteful exercise and would be purely academic. In the present case, the State Level Scrutiny committee issued notice to the petitioner to appear for enquiry only on 21.10.2019, 16.12.2019 at the verge of his retirement and passed an order, cancelling the community certificate of the petitioner only on 04.03.2021, after his retirement. In similar circumstances, in SLP(C) No.24458/2019 dated 03.03.2023, the Hon'ble Apex Court has held as follows:

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 is appropriate to order for closure of the proceedings.

Accordingly, the Special leave Petition stands disposed of.

11. Considering the facts and circumstances of the case and in the light of the above decision of the Hon'ble Apex Court, we are inclined to set aside the impugned orders passed by the 1st & 2nd respondents. However, the



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petitioner should not claim reservation benefit based on his community certificate in future or use the certificate as proof for his family members. Accordingly, the impugned order dated 04.03.2021 passed by the 1st respondent and the consequential order of the 2nd respondent dated 25.01.2023 are hereby set aside. However, the petitioner shall not claim reservation benefit based on his community certificate in future or use the certificate as proof for his family members.

12. The Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

(J.N.B., J.) (N.M., J.)
08.03.2024

vsi

Index : Yes / No

Internet : Yes / No

Neutral citation : Yes / No

To

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