



WP.No.18713/2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

WP.No.18713/2020

& WMP.No.23339/2020 & 6110/2021

Union of India
rep.by Senior Divisional Personnel Officer
Southern Railway, Divisional Office
Personnel Branch, Madurai Division,
Madurai.

... Petitioner

Vs.

1.Tamilnadu State Level Scrutiny committee-II
rep.by its Chairman
Adi Dravidar & Tribal Welfare Department
Namakkal Kavignar Maligai, Fort St George
Chennai 600 009.

2.R.Rajasekar

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India
for issuance of Writ of certiorarified mandamus calling for the entire records



WP.No.18713/2020

of the 1st respondent in proceeding No.2108/CV-2[2]/2014-12 dated 23.03.2020 and quash the same and further direct the 1st respondent to conduct a due and proper enquiry afresh regarding the community certificate dated 21.11.1989 issued by the Tahsildar, Virudhunagar to the 2nd respondent.

For Petitioner	: Mr.P.T.Ramkumar
For R1	: Mr.R.Kumaravel, AGP
For R2	: Mr.M.Nanda Kumar

ORDER

[Order of the Court was made by S.S.SUNDAR, J.,]

(1) This writ petition is filed by the employer of the 2nd respondent for issuance of a writ of certiorarified mandamus to quash the proceedings of the 1st respondent dated 23.03.2020 and to direct the 1st respondent to conduct due and proper enquiry afresh regarding community certificate issued by the Tahsildar, Virudhunagar to the 2nd respondent on 21.11.1989.

(2) Brief facts that are necessary for the disposal of the writ petition are as follows:

(3) The 2nd respondent got appointment in Railways against the vacancy



WP.No.18713/2020

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reserved for Scheduled Tribe based on the community certificate produced by the 2nd respondent showing the community status of 2nd respondent as 'Hindu Kattunaicken Community', which is a Scheduled Tribe Community. Based on a complaint received from the Vigilance Branch of the Southern Railway, it appears that a discrete enquiry was conducted. The petitioner had specifically stated that the father of the 2nd respondent also worked in Railways, but not as a person belonging to Scheduled Tribe Community. The sister's husband of the 2nd respondent is also stated to be working in Railways by showing his community as 'Vadugan' which is a Backward Class community.

(4)Based on the documents submitted and the request made by the petitioner to the District Collector, Virudhunagar District, to conduct an enquiry regarding the genuineness of the certificate issued to the 2nd respondent by the Tahsildar, Virudhunagar, the matter was referred to the 1st respondent / State Level Scrutiny Committee [SLSC]. Though the petitioner requested the 1st respondent to verify the genuineness of the community certificate issued by the Tahsildar, Virudhunagar to the 2nd respondent, the 1st respondent gave an opportunity to the 2nd respondent



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to obtain a fresh community certificate. The 2nd respondent obtained a new community certificate dated 26.11.2019 from the Revenue Divisional Officer, Aruppukkottai, nearly 20 years after appointment in Railways. Thereafter, the 1st respondent / SLSC conducted an enquiry to verify whether the community certificate dated 26.11.2019 issued by the Revenue Divisional Officer is genuine or not. After holding an enquiry based on the Report of the Anthropologist, the SLSC, after examination of the documents submitted by the 2nd respondent and the report of the Deputy Superintendent of Police, Social Justice and Human Rights Wing [Vigilance Cell], concluded that the 2nd respondent belongs to 'Hindu Kattunaicken' community, which is a Scheduled Tribe community. Thereafter, the SLSC also opined that the community certificate dated 26.11.2019 issued to the 2nd respondent is correct. Aggrieved by the same, the employer of the 2nd respondent, namely, the petitioner herein has filed the present writ petition raising several grounds.

(5) Even though the petitioner has raised several grounds, the learned counsel for the petitioner made the following submissions:-

(a) The 1st respondent has not considered the documents produced by



the Railway Administration which would establish the fact that the 2nd respondent does not belong to Hindu Kattunaicken community, a Scheduled Tribe community.

(b) The service particulars of the father of the 2nd respondent who was also employed in Railways, disclose that the 2nd respondent's father belongs to Hindu Naidu community, which is a Backward Class community. However, the 1st respondent did not consider the document.

(c) The 1st respondent failed to consider the community certificate issued to the relatives of the 2nd respondent and there is total non-application of mind as to the documents produced by the petitioner before the 1st respondent.

(d) When the request was given by the petitioner to verify the genuineness of the community certificate issued to the 2nd respondent by the Tahsildar, Virudhunagar, dated 21.11.1989 which is the basis for the 2nd respondent to secure employment, the 1st respondent without jurisdiction, permitted the 2nd respondent to obtain a fresh community certificate from the competent officer,



WEB COPY



WP.No.18713/2020

namely, Revenue Divisional Officer, Aruppukkottai, and passed orders after scrutiny on 26.11.2019.

(e) The 1st respondent has committed a grave error by relying upon the report of the Vigilance Cell dated 09.05.2018 submitted by the Deputy Superintendent of Police, Virudhunagar. The genuineness and correctness of the certificate dated 26.11.2019 issued by the Revenue Divisional Officer, Aruppukkottai, could not have been verified by the Vigilance Cell in their report given in 2018 and the State Level Scrutiny Committee failed to consider other aspects.

(6) Even though a few more grounds are also raised by the petitioner, this Court finds that the 1st respondent has failed to consider several documents relied upon by the petitioner.

(7) The Court heard the submissions of the learned Additional Government Pleader appearing for the 1st respondent and the learned counsel appearing for the 2nd respondent and also perused the records.

(8) First of all, the Deputy Superintendent of Police, Vigilance Cell, has filed a report dated 09.05.2018. A reading of the report would reveal that it is improper for the SLSC/1st respondent to rely upon the report of the



WP.No.18713/2020

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Vigilance Cell dated 09.05.2018 for verifying the community certificate issued to the 2nd respondent in November 2019. The fact that the father of the 2nd respondent secured employment under General category, is admitted before this Court. The 2nd respondent's father cautiously waived his privilege as a member of Scheduled Tribe community at any point of time. The sister of the 2nd respondent is given a community certificate which is not in tune with the claim of the 2nd respondent herein. Few other documents relied upon by the petitioner / employer, particularly, the first page of the Service Book of the father of the 2nd respondent would certainly give rise to some suspicion with regard to the genuineness of the claim made by the 2nd respondent. From the order, this Court is unable to find a discussion or an analysis as to why the community status of the 2nd respondent's father as recorded in his Service Record Book, cannot be relied upon. Having regard to the grounds raised and demonstrated before this Court, by the learned counsel for the petitioner, this Court is fully convinced that the 1st respondent miserably failed to consider several documents and facts which are more relevant and crucial in deciding the community status of the 2nd respondent.



WP.No.18713/2020

(9) In that view of the matter, the Impugned Order passed by the 1st respondent / SLSC is liable to be set aside.

(10) Accordingly, the writ petition stands **allowed** and the Impugned Order passed by the State Level Scrutiny Committee/ 1st respondent herein dated 23.03.2020 is **quashed**. However, the matter is remitted back to the 1st respondent / SLSC for fresh verification of the genuineness of the community status of the 2nd respondent herein. The 1st respondent / SLSC shall complete the process of scrutiny after considering all the documents produced by the petitioner as well as the 2nd respondent and after getting a fresh report from the Vigilance Cell, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.] [N.S., J.]
07.02.2024

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Internet : Yes
Neutral Citation: Yes/No



WP.No.18713/2020

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To
The Chairman
Tamilnadu State Level Scrutiny committee-II
Adi Dravidar & Tribal Welfare Department
Namakkal Kavignar Maligai, Fort St George
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WP.No.18713/2020

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AP

WP.No.18713/2020

07.02.2024