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W.P.No.29351 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :	22.12.2023
PRONOUNCED ON :	.03.2024

CORAM :

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.29351 of 2023
and W.M.P.Nos.28980 & 28981 of 2023

R.Shanthi

... Petitioner

Vs.

1. The State Level Scrutiny Committee
rep., by its Chairman,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavignar Maligai,
Secretariat, Chennai 600 009
2. The Deputy Superintendent of Police,
SC-ST Vigilance Cell,
Chennai Region, 8th Floor,
District Collector's Office Complex,
Chennai 600 001
3. The Bank of Baroda,
rep. By its Regional Head,
Chennai Metro Region 1,
No.10, C.P.Ramaswamy Road,



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II Floor, Alwarpet, Chennai 600 018

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to forbear the second respondent from proceeding further pursuant to the communication dated 11.08.2023 and consequently direct the third respondent to disburse terminal benefits with reasonable interest.

For Petitioner : Mr.M.Suresh Kumar

For R-1 : Mr.R.L.Karthika,
Government Advocate

For R-2 : Mr.S.Rajakumar,
Additional Public Prosecutor

For R-3 : Mr.P.Ragunathan,
For M/s.T.S.Gopalan and Co.

ORDER

Per J.NISHA BANU, J.,

This writ petition has been filed by the petitioner seeking for a writ of Mandamus to forbear the second respondent from proceeding further pursuant to the communication dated 11.08.2023 and for a consequential direction to the third respondent to disburse terminal benefits with reasonable interest.

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2. According to the petitioner, she belongs to Kondakappu Community, which is one of the Communities listed as a Scheduled Tribe, under the Constitution (Scheduled Tribes) Order, 1950. She has been issued with Community Certificate by the Tahsildar, Saidapet Taluk Office, on 21.12.1986, that she belongs to Scheduled Tribe Community.

3. On 05.05.1988, she joined as Clerk in the third respondent Bank, after verification of her community certificate. The respondent Bank however, directed the petitioner to obtain another community certificate in a prescribed format. The petitioner to abide with the said condition, had obtained another community certificate dated 21.06.1988 and submitted the same and thus her service got confirmed.

4. According to the learned counsel for the petitioner, after completion of almost 11 years of service, during 1997, at the instance of third party complaints, the respondent Bank had referred the petitioner's community certificate for verification to the then District Collector, Kancheepuram.



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Upon verification, the petitioner's community certificate got cancelled vide order dated 09.05.1997 without considering the legal preposition relied in Madhuri Patil's case that only an appropriate committee has the jurisdiction to pass the said order. Aggrieved by such cancellation, the petitioner approached this Court by filing a writ petition in W.P.No.7719 of 1997 and this Court, vide order dated 01.08.2005, set aside the above order passed by the District Collector, Kancheepuram.

5. The learned counsel for the petitioner further submitted that the petitioner's matter was once again re-opened and the community certificate of the petitioner was canceled by the District Level Vigilance Committee vide proceedings dated 25.04.2007. Subsequently, the petitioner filed a writ petition in W.P.No.19624 of 2007 and this Court, vide order dated 28.08.2008, set aside the proceedings dated 25.04.2007 and remitted the matter for enquiry by the appropriate scrutiny committee viz. State Level Caste Scrutiny Committee/ the first respondent herein.

6. Thereafter, the petitioner made a representation dated 29.09.2008 by



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enclosing copies of the community certificates issued by various Authorities issued in favour of the petitioner's family members.

7. The contentions raised by the learned counsel for the petitioner is that the petitioner's relatives, viz. father, own brother, father's younger sister and elder brother were issued with community certificates by different officers after conducting proper enquiry. Even the petitioner's father had entered into the service of L.I.C. as early as in the year 1962 under the quota reserved for Scheduled Tribes and had retired from service in the year 1993.

8. The learned counsel for the petitioner would submit that the petitioner has specifically made a request to the first respondent to intimate the date of enquiry, if any, however, she was not called for any enquiry thereafter. Moreover, the petitioner was not served with any notice for several years till her superannuation. Since the first respondent herein has been impleaded as one of the respondents in W.P.No.19624 of 2007, it is the duty of the first respondent to conduct an enquiry. Upon the petitioner's superannuation on 30.04.2023 as Head Cashier, Tiruvanmiyur Branch, the



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petitioner has sent necessary claim statement for the disbursement of her terminal benefits to the third respondent. But the petitioner has been sanctioned only with the provident fund; all other terminal benefits including pension will be sanctioned only after the verification of the community certificate of the petitioner, by way of communication dated 18.04.2023.

9. On 11.08.2023, the respondent Bank sent a notice to the petitioner to appear for an enquiry regarding verification of her community certificate. According to the learned counsel for the petitioner, the enquiry and denial of disbursement of terminal benefits are illegal as per the judgment of the Hon'ble Supreme Court in ***R.Sundaram vs. State Level Scrutiny Committee*** dated 17.03.2023. The relevant portion of the order is extracted hereunder:

“23. Any person, whose entire identity, and their past, present and future rights are challenged, must at the least be given an opportunity to be fairly heard. In the case at hand however, such a right has been denied to the Appellant, and hence the burden of proof on the respondents to disprove the nature of the certificate, has not been discharged. In the absence of the discharge of such burden of proof, this Court



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must presume the community certificate of the Appellant to be genuine. ”

10. According to the learned counsel for the petitioner, the initiation of enquiry once again by the respondents, after completion of 35 years is incorrect and unlawful. Even though there were no adverse materials available against the petitioner, the respondents have initiated enquiry against her, which is perverse. Therefore, the learned counsel for the petitioner prayed for allowing the writ petition and for a consequential direction to the third respondent to disburse the petitioner's terminal benefits with reasonable interest.

11. Per contra, Mr.P.Ragunathan, learned counsel appearing for the third respondent Bank submitted that on 11.08.2023, the petitioner was called to appear before the Superintendent of Police SC/ST Vigilance Cell, which the petitioner did not comply with. He further stated that when an appointment has been obtained in respect of a post reserved for SC/ST and if it was found that the caste certificate was fraudulent, then the entire



appointment is non-est and therefore, the appointee would not be entitled to the benefits of such employment including terminal benefits like pension gratuity. He relied on the following judgments:-

- (i) *Chief Executive Officer, Bhilai Steel Plant, Bhilai vs. Mahesh Kumar Gonnade and others* reported in **2022 SCC Online SC 866**;
- (ii) *Central Bank of India vs. Madhulika Guruprasad Dahir* reported in **(2008) 13 SCC 170**; and
- (iii) *State of Bihar vs. Devendra Sharma* reported in **(2020) 15 SCC 466**;

12. According to the learned counsel for the respondents, the petitioner, when asked to attend an enquiry, did not attend the same and therefore, the legal preposition held in **R.Sundaram's** case does not apply to the petitioner's case. He contended that the petitioner may be directed to attend the enquiry and await the result of the enquiry for claiming terminal benefits and hence, prayed for dismissing the petition.



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13. Heard the learned counsel for the petitioner as well as the respondents and perused the materials available on record.

14. A perusal of the case in hand would go to show that after petitioner's superannuation on 30.04.2023, the second respondent issued the impugned notice dated 11.08.2023 asking the petitioner to appear for an enquiry regarding verification of community certificate. It is settled law that community certificate has to be verified at the earliest. But in the case of the petitioner, the petitioner's community certificate was cancelled by the District Vigilance Committee without jurisdiction and this court by order dated 01.08.2005, set aside the same in W.P.No.7719 of 1997. But, again the petitioner's community certificate was cancelled by the District Vigilance Committee on 25.04.2007. The petitioner again challenged the same before this court in W.P.No.19624 of 2007, whereby the impugned order was set aside with a direction to the State Level Scrutiny to decide the matter in accordance with G.O.(2D).No.108, Adi Dravidar and Tribal Welfare (CV-I) Department dated 12.09.2007. Thereafter, the petitioner by letter dated



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29.09.2008, submitted the documents in support of her claim that she belongs to Kondakapput community. The petitioner also stated that she is willing to appear for personal hearing. However, on 18.04.2023, it is stated by the 3rd respondent Bank that since the verification of genuineness of community certificate is pending, terminal dues shall be payable only after the due verification of community status. The petitioner was superannuated on 30.04.2023. Thereafter, the petitioner was issued with Enquiry notice by the second respondent on 11.08.2023. However, the direction already issued by this court is that the State Level Scrutiny Committee is to scrutinise the community certificate. The 2nd respondent's communication is without jurisdiction and further the enquiry now called for is against the law laid down by the Honourable Supreme Court and the Service Rules.

15. The service rule contemplates immediate verification of the truthfulness of caste claims for appointments made on reservations to the vulnerable communities. It directed completion of the verification about the veracity of caste/community certificate within 2 months. The Hon'ble Supreme Court of India, in the judgment [**R.Sundaram vs. Tamil Nadu**



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State Scrutiny Committee reported in 2023 SCC Online SC 287] has held that the exercise of verification of community certificate must be completed expeditiously. In the present case however, as has been mentioned above, there has been an inordinate and unexplained delay of 35 years, an amount of time which cannot be fathomed within the ambit of “reasonable time”. In such view of the matter, the impugned enquiry notice issued to the petitioner, is not sustainable. Accordingly, the Writ Petition is allowed. The Enquiry notice dated 11.08.2023 is set aside. The respondent Bank is directed to disburse the terminal benefits within a period of eight weeks from the date of receipt of a copy of this order. No costs.

(J.N.B., J.)

(N.M., J.)

18.04.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

sts/nvsri

To:

1. The Chairman,
State Level Scrutiny Committee
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavignar Maligai,
Secretariat, Chennai 600 009



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2. The Deputy Superintendent of Police,
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J.NISHA BANU, J.,
and
N.MALA, J.,

sts/nvsri

Order made in
W.P.No.29351 of 2023

Dated:
18.04.2024