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W.P.No.36955 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE P. DHANABAL

W.P.No.36955 of 2024

and

WMP.Nos.39906 & 39907 of 2024

G.Sundaram

... Petitioner

Vs.

1.The Chairman

State Level Scrutiny Committee-II

Additional Secretary to Government

Adi Dravidar and Tribal Welfare (CV2), Department
Secretariat, Chennai 9.

2.The Director

Tribal Welfare Department

Chepauk

Chennai 600 005.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent made in impugned Letter No.12824/CV-III/2020-3, dated



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05.01.2021 and impugned notice of the second respondent Na.Ka.No.Pame/Aa1/9120/2024 dated 30.08.2024 and quash the same and consequently refrain the respondents from making verification into the petitioner's community after retirement.

For Petitioner : Mr.N.Naganathan
For R1 & R2 : Mr.R.Kumaravel
Additional Government Pleader

ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

The petitioner in this writ petition challenges the notice issued by the 1st respondent dated 05.01.2021 asking the petitioner to appear for an enquiry, as they have received a request from the employer of the petitioner to verify the genuineness of the Community Certificate issued to the petitioner. The other communication dated 30.08.2024 issued by the 2nd respondent, which is again a Show Cause Notice asking for explanation from the petitioner as to the information furnished by the Vigilance Cell holding that the Community Certificate issued to the petitioner is not genuine, is also under challenge in this writ petition.



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2.The only contention raised by the petitioner is by producing few judgments to the effect that no verification as to the community status can be conducted after retirement. The petitioner also relied upon the guidelines given by the Government of India suggesting that there can be no verification in case the employment was on the basis of Community Certificate issued prior to 1995. The further submission of the learned counsel for the petitioner is that there can be no enquiry regarding verification as to community status, in case the employee, during enquiry, attains the age of superannuation.

3.This Court has considered all the submissions in the case of ***C.Arumugam v. The Chairman, State Level Scrutiny Committee-II, Adi Dravidar and Tribal Welfare Department, Namakkal Kavingar Maligai, Secretariat, Chennai – 9 [W.P.Nos.9995 of 2021, etc. batch, dated 12.04.2024]*** and held as follows :

“20.Therefore, we are unable to follow the three



*judgments relied upon by the learned counsels appearing for the petitioners, viz., Union of India and another v. S.Renuka and others [SLP (C) No.24458/2019 dated 03.03.2023], V.Vallinayagam v. The Chairman, State Level Scrutiny Committee-II, Secretariat, Chennai [W.P.No.27823 of 2023, dated 25.09.2023] and V.Shanmugaraj v. The Chairman, State Level Scrutiny Committee-II, Secretariat, Chennai [W.P.No.29976 of 2023, dated 03.11.2023], in view of the categorical pronouncement of the Hon'ble Supreme Court in the judgments above referred to, on principles. Ratio of judgment alone is binding. It is only the reason assigned in the ratio decidendi of a judgment. The judgment of Hon'ble Supreme Court in S.Renuka's case without considering the spirit of several judgments including larger Bench of Hon'ble Supreme Court, need not be followed. Therefore, we have no hesitation to hold that those three judgments may not be binding precedents as they were rendered without noticing the binding precedents on principles reiterated by Hon'ble Supreme Court in the cases of **Kumari Madhuri Patil**, **R.Vishwanatha Pillai**, and **Food Corporation of India (supra)**. Verification once started shall continue till its logical end and retirement of an employee during enquiry as to his community status does not affect the proceedings.*

...



33. Therefore, this Court is unable to agree with the submission of the learned counsels appearing for the petitioners that there cannot be verification of Community Certificates which were obtained prior to 1995. Equally, merely because appointment was before 1995, it cannot be said that verification in those cases cannot be done, as rightly pointed out by Hon'ble Mrs. Justice N.Mala while expressing dissenting view that this Court cannot declare or legitimise fraud committed by a person merely because he obtained the false certificate or got employment based on a false claim before 1995. It is settled that fraud vitiates every solemn transaction and there cannot be a legal sanction to condone fraud if it is committed before 1995. Therefore, irrespective of date of Community Certificate or date of appointment before or after 1995, verification as to the genuineness of Community Certificate or claim as to one's community status shall continue to its logical end.”

4. In view of the judgment of this Court referred to *supra*, this Court is unable to countenance any of the submissions or the points argued by the learned counsel for the petitioner. Hence, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.



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(S.S.S.R., J.) (P.D.B., J.)
13.12.2024

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Neutral Citation : Yes

To

- 1.The Chairman
State Level Scrutiny Committee-II
Additional Secretary to Government
Adi Dravidar and Tribal Welfare (CV2), Department
Secretariat, Chennai 9.
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