BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD) No.7424 of 2021
and
W.M.P.(MD)Nos.5607 & 5608 of 2021

P.Malathi ... Petitioner

-vs-

1.The State Level Scrutiny Committee - II,
Rep. by its Chairman / Addl. Secretary to Government,
Adi- Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maaligai, 3rd Floor,
Secretariat,
Chennai – 9.

2.The District Collector,
Kanyakumari District,
Kanyakumari.

3.The Deputy Superintendent of Police,
Vigilance Cell (SC and ST) ,
Kanyakumari District,
Kanyakumari.

4.The Revenue Divisional Officer,
O/o. the Revenue Divisional Office,
Padmanabhapuram,
Kanyakumari District.

5.The Joint Commissioner of Income Tax,
Shivaraj Building,
Tower Junction,
Nagercoil Range,
Nagercoil,
Kanyakumari District. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the first respondent vide her impugned proceedings No. 20144/CV-2(1)/2013-9, dated 21.10.2019, quash the same as illegal and consequently, direct the respondents to issue community certificate to the petitioner holding that the petitioner belongs to Hindu Mannaan Scheduled Tribe Community and disburse the retirement benefits of the petitioner along with arrears thereof within the period that may be stipulated by this Court.

For Petitioner	:	Mr.M.Ajmalkhan Senior Counsel Assisted by Mr.H.Mohamed Imran for M/s.Ajmal Associates
For R1 to R4	:	Mr.P.T.Thiraviyam Government Advocate

For R5 : Mr.J.Praekh Kumar
Standing Counsel

O R D E R

[Order of the Court was made by **R.SUBRAMANIAN, J.**]

The order of the State Level Scrutiny Committee declaring that the certificate issued to the petitioner to the effect that she belongs to Hindu Mannaan [மன்னான்], a Scheduled Tribe community in Kanniyakumari District, was held to be not genuine.

2. The petitioner, who was born on 12.04.1956, was favoured with the certificate to the effect that she belongs to Hindu Mannaan, a Scheduled Tribe community by the Tahsildar, Thucklay, Kanniyakumari District, on 06.01.1975. She was appointed as a Lower Division Clerk in the Income Tax Department on 08.03.1979 and she retired on 30.04.2016. In the interregnum, the District Collector, Kanniyakumari District, by his proceedings dated 12.05.1989, cancelled the certificate issued to the petitioner. The same was re-affirmed by the District Collector, Kanniyakumari, on 25.07.1996.

3. After the constitution of the Committee for verification of the community certificates, the Tahsildar, Kalkulam Taluk, conducted an enquiry and found that the petitioner in fact, belong to Hindu Mannaan, a Scheduled Tribe community. Thereafter, the matter was referred to the Tribal Research Centre at Udagamandalam. After an enquiry, the Tribal Research Centre submitted a report on 25.02.2015 and its conclusion reads as follows:-

> *"The above narrated anthropological description about the studied community reveals that this particular Appellant Tmt.P.Malathi is having many characteristics of a Tribe Hindu Mannan."*

4. The State Level Scrutiny Committee, however, based on the report of the Vigilance Enquiry, concluded that the petitioner does not belong to that community and declared the certificate as not genuine.

5. We have heard Mr.M.Ajmalkhan, learned Senior Counsel appearing for the petitioner; Mr.P.T.Thiraviyam, learned Government Advocate appearing for the respondents 1 to 4; and Mr.J.Parekh Kumar, learned Standing Counsel appearing for the fifth respondent.

6. Mr.M.Ajmalkhan, learned Senior Counsel appearing for the petitioner would contend that once the blood relatives of the petitioner are issued with certificates to the effect that they belong to Hindu Mannaan, a Scheduled Tribe community, the certificate of the petitioner alone cannot be cancelled. He would also submit that the order of the State Level Scrutiny Committee is riddled with contradictions. The Committee, after referencing Edgar Thurston's Castes and Tribes of Southern India and the Census of India, 1931, Volume XXVIII, observed that Mannaans and Vannaans of Kanniyakumari District are one and the same. In the very next Paragraph namely, Paragraph 12, the State Level Committee observes that the individual's community traits match only those of the Vannaan community, not the Mannaan, a Scheduled Tribe community. Since the Committee had previously concluded that both communities are the same, the observations in Paragraph 12 are quite contradictory.

7. The report of the Director of the Tribal Research Centre at Udagamandalam as well as the certificates issued to the blood relatives have been completely overlooked by the State Level Scrutiny Committee.

8. In **State of Bihar** vs. **Sumit Anand** reported in **2005 (12) SCC 248**, the Hon'ble Supreme Court has held that once the certificates are issued to the near relatives or blood relatives, subsequent applicants cannot be denied certificates. The said principle has been followed by this Court in many cases of certificate verification, wherein it has been held once the certificates issued to the blood relatives are not cancelled, cancellation of the certificates of individuals without reference to those certificates, cannot be sustained.

9. Mr.P.T.Thiraviyam, learned Government Advocate appearing for the respondents 1 to 4 would however, vehemently contend that the State Level Scrutiny Committee has reached the conclusion based on the deposition of the petitioner before it and therefore, such conclusion cannot be lightly interfered.

10. Mr.J.Parekh Kumar, learned Standing Counsel appearing for the fifth respondent would adopt the argument of Mr.P.T.Thiraviyam, learned Government Advocate appearing for the respondents 1 to 4.

11. As we already pointed out, the order of the State Level Scrutiny Committee is self-contradictory. Having concluded that the Mannaans and Vannaans of Kanniyakumari District are one and the same, the Committee could not then determine that the petitioner belongs to the Vannaan community and not the Mannaan community. Once a community from a particular region is declared a Scheduled Tribe and the petitioner is recognized as belonging to that community, she cannot be denied the certificate, nor can the certificate be deemed invalid.

12. The fact that the certificates of the brother and sister of the petitioner to the effect that they belong to Mannaan, a Scheduled Tribe community have not been cancelled also militates against the conclusion of the State Level Scrutiny Committee.

13. We also note that the petitioner, who joined as a Lower Division Clerk in 1979 and retired in 2016 after nearly 37 years of service, cannot be denied the benefits of her service on the basis of the laconic and erroneous order that has been passed by the State Level Scrutiny Committee. Hence, the Writ

Petition will stand allowed and the order of the State Level Scrutiny Committee is set aside. There will be a direction to the fifth respondent to pay all the retirement benefits of the petitioner within a period of 12 weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : No **[R.S.M., J.]** **[L.V.G., J.]**
Index : No **21.08.2024**
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To:-

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