



W.P.(MD)No.10309 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.10309 of 2024 &
W.M.P.(MD)No.9273 of 2024

P.Balamurugan

... Petitioner

vs.

**1.The Registrar cum Managing Director,
Diarying, Aavin Illam,
Mathavaram Milk Colony,
Chennai - 600 085.**

**2.The General Manager,
A1301,
Madurai District Milk Producers
Co-operative Union (Aavin),
Santhamangalam, Madurai District - 20.**

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned charge memo issued by the second respondent in Ref.No.3407/IR/2018 dated 29.06.2018 and quash the same and consequently direct the respondents to regularize the petitioner's service to the post of Extension Office Grade II *w.e.f.* 09.10.2017 and also pay all monetary benefits on par with the petitioner's juniors.



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For Petitioner : Mr.C.Jeganathan

For Respondents : Mr.J.Devasenar,
Standing Counsel

ORDER

Heard Mr.C.Jeganathan, learned counsel appearing for the petitioner and Mr.J.Devasenar, learned counsel appearing for the respondents.

2. The petitioner has filed this petition seeking to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned charge memo issued by the second respondent in Ref.No. 3407/IR/2018 dated 29.06.2018, quash the same and consequently direct the respondents to regularize his service in the post of Extension Office Grade II *w.e.f.* 09.10.2017 and also pay all monetary benefits on par with his juniors.

3. The petitioner was given with a charge memo on the allegation that he managed to secure a Community Certificate by misrepresentation that he belongs to Schedule Caste category.



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4. Mr.C.Jeganathan, learned counsel appearing for the petitioner submitted that the petitioner has already been kept under suspension on the same allegations and he has challenged the same by way of preferring a writ petition before this Court in W.P.(MD)No.14180 of 2018, wherein, vide order dated 04.07.2018, the following order has been passed.

"19.In view of the above, this Court has no hesitation to hold that the impugned order is unjust. Accordingly, it is quashed. It is made clear that once the genuinity of the community certificate produced by the petitioner is decided one way or other by the competent authority, namely the District Level Committee headed by the District Collector and accordingly, the report is received from the District Collector, it is open to the respondent to act upon depending upon the out come of the decision to be taken by the competent authority. Till such time, on the basis of the alleged reason of in-genuineness of the community certificate, no action against the petitioner would be taken."

5. The District Level Committee headed by the District Collector has also given a report stating that the Community Certificate



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produced by the petitioner is a genuine one. So, it is contended by the petitioner that despite the District Level Committee had issued a positive report in favour of him, charge memo has been given without any basis.

6. Mr.J.Devasenan, learned Standing Counsel appearing for the respondents submitted that the District Level Committee had given a report only in respect of genuineness of the Community Certificate and not in respect of the fact whether the petitioner belongs to the Scheduled Caste category as mentioned in the Certificate. It is his submission that a complaint was received from one Managiri Ganesan and in pursuant to that an enquiry officer has been appointed and the enquiry report filed by the enquiry officer reveals that the petitioner belongs to Backward Class community, but, he managed to get a Certificate as though he belongs to Scheduled Caste category.

7. The learned Standing Counsel further submitted that the above exercise of finding out whether the petitioner belongs to Scheduled Caste category or not as claimed by the petitioner in his Certificate is due to the complaint given by Managiri Ganesan to the CM



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Cell on 19.12.2022, which was forwarded to the Chief Vigilance Officer, Aavin, Chennai. The Vigilance Enquiry Officer has given a suggestion that the Community Certificate of the petitioner's father by name Paramanandham and the petitioner's father's brother by name Palanisamy are of different communities. Hence, once again, the matter was sent to the District Level Committee in order to find out whether the petitioner originally belonged to Scheduled Caste community as claimed by him. It is his submission that only in view of the recommendation made by the Vigilance Enquiry Officer, to show the fraud played by the petitioner, disciplinary action has been initiated against him.

8. In the charge memo given to the petitioner, it is stated that there is a difference in the Community Certificates of the petitioner's own family members and hence, there is reason to issue charges against the petitioner for fabricating the records.

9. The petitioner has not furnished any fabricated documents and it is substantiated by the report of the District Level Committee dated 27.07.2022. Hence there is no basis to raise a charge that the petitioner



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has produced fabricated documents. But, it can be limited to the fact whether the petitioner had misrepresented before the Revenue Authorities and had managed to obtain a Community Certificate stating that he belongs to Scheduled Caste category. So far as the petitioner is concerned, he can know his community only from his father Paramanantham. It is not denied that his father possessed a Scheduled Caste category Community Certificate.

10. To the knowledge of the petitioner, his father possessed Community Certificate for Scheduled Caste category and so, the petitioner had rightly obtained the same category Community Certificate from the Revenue Authorities. The competency of the authorities who issued the Community Certificate is not also denied. But, one third party has sent a complaint to the CM Cell stating that the petitioner does not belong to Schedule Caste category. The Vigilance Department of Aavin had initiated enquiry in order to find out the genuineness of the petitioner's Community Certificate and found out that there is a difference in the Community Certificates of the petitioner's father and petitioner's father's brother. For holding different community Certificates



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by the elder family members of the petitioner, he cannot take the brunt.

The best thing the Department can do is to send the papers for getting a report from the District Level Committee appointed in this regard and act in accordance with their report. In fact, this Court has also issued an order only to act in accordance with the report of the District Level Committee.

11. Even for any extraneous reasons, if the family members of the petitioner had obtained a Community Certificate by misrepresentation, the petitioner cannot be blamed. Since the petitioner can know his origin of caste from his father, who had a Community Certificate that he belonged to Scheduled Category, no malice can be attributed to the petitioner. In such case, it cannot be claimed that the petitioner had made any misrepresentation to any of the authorities concerned. It is up to the authorities to make appropriate enquiry basing upon the materials produced by the petitioner and grant a Certificate. No material has been placed to show that the authorities who had issued the Community Certificate to the petitioner were made to face charges on the ground that they have given a false Certificate. Therefore, I feel it is



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unfair to issue charges against the petitioner despite knowing that the petitioner's father possessed Community Certificate of the same category.

12. In view of the above stated reasons, the writ petition is **allowed** and the impugned charge memo issued by the second respondent in Ref.No.3407/IR/2018 dated 29.06.2018 is set aside and the respondents are directed to pass orders to regularize the service of the petitioner, if he is otherwise eligible, with continuance of service with all other attendant benefits, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

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NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order

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R.N.MANJULA, J.

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