



W.P.No.6122 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

|                                  |                                   |
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| <b>Reserved on</b><br>17.12.2024 | <b>Delivered on</b><br>08.01.2025 |
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CORAM:

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN  
AND  
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

**W.P.No.6122 of 2021**  
**and**  
**W.M.P.Nos.6740 & 6742 of 2021**

L.Balasubramanian

...Petitioner

Vs.

- 1.The State Level Scrutiny Committee II,  
Adi Dravidar and Tribal Welfare Department,  
Namakkal Kavingar Maligai, Secretariat,  
Chennai – 600 009.
- 2.The Director of Tribal Welfare,  
Chepauk, Chennai – 600 005.
- 3.M.Ravichandran,  
The Deputy Superintendent of Police,  
SCs/ ST Vigilance Cell,  
Salem Region,  
Room No.109, District Collector Office Compound,



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Salem – 1.

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4.A.S.Mohan Ram,  
Deputy Conservator of Forest,  
Member Secretary (F.A.C),  
State Level Scrutiny Committee II,  
Adi Dravidar and Tribal Welfare Department,  
Chennai – 600 009.

5.The Deputy Financial Advisor,  
And Chief Accounts Officer,  
Workshop and Store,  
Southern Railway,  
Goldenrock, Trichy – 620 004.

...Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records of the 1<sup>st</sup> respondent's impugned proceedings No.8427/CVIII(1)/2013-7 dated 02.02.2021 and quash the same.

|                                |                                                                                                                               |
|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| For Petitioner                 | : Mr.L.Chandrakumar<br>for Mr.N.Naganathan                                                                                    |
| For Respondents 1 to 4         | : Mr.P.Kumaresan,<br>Additional Advocate General<br>Assisted by<br>Mr.Vadivelu Deenadayalan,<br>Additional Government Pleader |
| For 5 <sup>th</sup> Respondent | : Mr.P.T.Ram Kumar                                                                                                            |

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## **ORDER**

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(Order of the Court was made by **R.SUBRAMANIAN, J.**)

The challenge in the Writ Petition is to the order of the State Level Scrutiny Committee – II, dated 02.02.2021, in and by which, the Committee cancelled the community certificate issued to the petitioner.

2. The petitioner was favoured with a community certificate on 12.09.1978, declaring that he belongs to “Kaniyan”, a Scheduled Tribe Community. The certificate was issued by the Head Quarters Deputy Tahsildar, who was then the Authorized Officer to issue such certificate. In the year 1991, the District Collector cancelled the community certificate issued to the petitioner.

3. This resulted in the petitioner filing W.P.No.2615 of 1992 challenging the order of cancellation. The Writ Petition was dismissed by the learned Single Judge of this Court and on appeal, the said order was set aside requiring the State Level Scrutiny Committee to go into the question of genuineness of the certificate, in view of the constitution of such



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Committee by the Government during the pendency of the Writ Petition.

Thereafter, however there were no further proceedings taken and the petitioner continued in service.

4. Finally in the year 2016, the District Vigilance Officer filed a report stating that the petitioner does not belong to “Kaniyan”, a Scheduled Tribe community and therefore the certificate is not genuine. The Director of Welfare of Scheduled Tribes forwarded the report of the Vigilance Cell to the petitioner and required him to file an explanation on 13.11.2020. A notice was issued to the petitioner on 16.11.2020 requiring him to appear for an enquiry on 14.12.2020 and also to show cause as to why the certificate issued should not be cancelled.

5. The petitioner wrote to the State Level Scrutiny Committee on 30.11.2020 expressing his inability to participate in the enquiry due to COVID restrictions. He was even at that time aged about 63 years having retired from service. The State Level Scrutiny Committee however proceeded exparte and passed an order on 02.02.2021 cancelling the



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community certificate. It is this order of cancellation that is subject matter of challenge before us.

6. We have heard Mr.L.Chandrakumar, learned counsel appearing for the Mr.Naganathan for the petitioner and Mr.P.Kumaresan, learned Additional Advocate General assisted by Mr.Vadivelu Deenadayalan, learned additional Government Pleader for respondents 1 to 4 and Mr.P.T.Ram Kumar, learned counsel for the employer viz., the 5<sup>th</sup> respondent.

7. Though various contentions were raised by the learned counsel for the parties we do not think we need to get into the merits of the issue, since we find that the petitioner has not been afforded a reasonable opportunity by the State Level Scrutiny Committee.

8. As we have adverted to, the notice was issued on 16.11.2020 requiring the petitioner to appear before the Committee on 14.12.2020. Admittedly the COVID restrictions were in place during the months of November and December 2020. There was a lock-down announced till



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31.12.2020 under G.O.(Ms) No.541, Revenue and Disaster Management

(D.M.IV) Department, dated 30.09.2020 and large scale restrictions were there and persons above 60 years of age and persons with co-morbidities were advised to stay at home. It is in this situation the Committee had gone ahead with the enquiry rejecting the request for adjournment made by the petitioner.

9. We therefore find that the petitioner was denied a fair opportunity by the State Level Scrutiny Committee. There was no such tearing urgency for the Committee to go ahead with the determination as the employee had retired by then and the Railways had not paid him the retiral benefits. We must point out that this court in the year 2000 directed an enquiry by the State Level Scrutiny Committee and the committee swung in to action only in the year 2016 after 16 years. It is the fundamental principles of law that a person whose certificate is sought to be cancelled should be given a fair opportunity by the Committee, which takes up the enquiry. Absence of reasonable opportunity itself is a good ground to set aside the proceedings of the Committee.



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**10.** We therefore conclude that the action of the Committee in proceeding with the enquiry when COVID restrictions were in place, that too, without hearing the petitioner has considerably prejudiced the cause of the petitioner and therefore the order of the State Level Scrutiny Committee is liable to be set aside. Accordingly, the order of the State Level Scrutiny Committee dated 02.02.2021 impugned in the Writ Petition will stand set aside.

**11.** Normally we should direct the State Level Scrutiny Committee to take up the matter again and re-determine the issue after hearing the petitioner. But, we find that no useful purpose will be served by directing such re-enquiry. Admittedly, the petitioner has retired on 31.07.2016 itself. Therefore, the determination of the genuineness of his community would only be academic. As already pointed out though a Division Bench of this Court as early as on 22.11.2000 directed re-enquiry by the State Level Scrutiny Committee, the Committee did not take up the issue till 2016. The District Level Vigilance Cell submitted its report on 24.11.2016 i.e., after



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the retirement of the petitioner. We therefore do not think it would be proper for us to direct an inquiry in to the issue at this distant point of time.

**12.** We however make it clear that the certificate which has been issued to the petitioner will not form the basis for any further certificates in favour of the petitioner's children or grand-children. If the children or grand-children or any other blood relatives of the petitioner want to apply for a certificate to the effect that they belong to Scheduled Tribe Community viz., Kaniyan, they will have to establish the fact that they belong to Hindu – Kaniyan, a Scheduled Tribe Community *de hors* the certificate issued to the petitioner.

**13.** The 5<sup>th</sup> respondent Railways will disburse the retiral benefits of the petitioner, including pension, if any, within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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**14.** The writ petition is **disposed of** as above. The parties will bear their own costs. Consequently, the connected miscellaneous petitions are closed.

**(R.SUBRAMANIAN, J.) (C.KUMARAPPAN, J.)**  
08.01.2025

dsa

Index : No

Internet : No

Neutral Citation : No

Speaking order



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To

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Chennai – 600 009.
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3. M. Ravichandran,  
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**and**  
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