



W.P.No.31849 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2025

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CORAM :

THE HONOURABLE MR. MANINDRA MOHAN SHRIVASTAVA,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

W.P.No.31849 of 2025

V.Manickam

.. Petitioner

Vs.

1. Union of India

Rep. by the Director
Ministry of Tribal Affairs
Government of India
Shastri Bhawan
New Delhi 110 001.

2. State of Tamil Nadu

rep. by the Principal Secretary to Government
Adi Dravidar and Tribal Welfare Department
Secretariat
Chennai 600 009.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing respondent No.1 to take a decision on the recommendation of respondent No.2 made vide its letter No.13194/CVI/2007-58 dated 17.10.2023 in accordance with law within a reasonable time as may be fixed by the Hon'ble Court.



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For Petitioner : Mr.M.Radhakrishnan

For Respondents : Mr.S.Diwakar
Central Government Senior
Panel Counsel
for Respondent-1

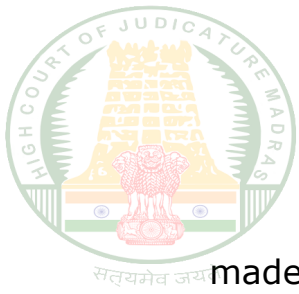
Mr.M.Habeeb Rahman
Government Advocate
for Respondent-2

ORDER

(Order of the Court was made by
the Hon'ble Chief Justice)

Prayer made in this petition is to direct 1st respondent to take a decision on the recommendation of second respondent made vide letter dated 17.10.2023 towards consideration in the matter of inclusion of synonymous names of Kurumans, a Scheduled Tribe, in the list of Scheduled Tribes of Tamil Nadu.

2. According to learned counsel for the petitioner, in earlier rounds of litigation, this Court has clearly observed that as the representations are pending and the Central Government had also



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made a statement that representations would be considered, petition was disposed of with liberty to agitate afresh if the representations are not considered one way or other.

3. Learned counsel for petitioner would submit that as the recommendation is made by State Government, it is imperative for the Central Government to take decision one way or the other.

4. After having heard learned counsel for petitioner, we are of the view that no mandamus can be issued in the matter of inclusion or exclusion of any name as synonyms in the Scheduled Tribe list.

5. The settled legal position in this regard was noted by the Hon'ble Supreme Court in its Constitutional Bench judgment in the case of *State of Maharashtra v. Milind and others*, (2001) 1 SCC 4. The earlier decisions rendered by the Supreme Court on the issue were referred to as below:

"16. In B. Basavalingappa v. D. Munichinnappa, AIR 1965 SC 1269, a Constitution Bench of this Court has held thus:



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'It may be accepted that it is not open to make any modification in the Order by producing evidence to show (for example) that though Caste A alone is mentioned in the Order, Caste B is also a part of Caste A and therefore must be deemed to be included in Caste A. It may also be accepted that wherever one caste has another name it has been mentioned in brackets after it in the Order [see Aray (Mala) Dakkal (Dokkalwar) etc.]. Therefore, generally speaking it would not be open to any person to lead evidence to establish that Caste B (in the example quoted above) is part of Caste A notified in the Order. Ordinarily therefore it would not have been open in the present case to give evidence that the Voddar caste was the same as the Bhovi caste specified in the Order for Voddar caste is not mentioned in brackets after the Bhovi caste in the Order.'

...

18. Again a Constitution Bench of this Court in a later decision in Bhaiya Lal v. Harikishan Singh, AIR 1965 SC 1557, did not accept the plea of the appellant that although he was not a Chamar, as such he could claim the same status by reason of the fact that he belonged to Dohar caste which is sub-caste of Chamar. Even after referring to the case of Basavalingappa it was held that an inquiry of that kind would not be permissible in the light of the provisions contained in Article 341 of the Constitution. In that case the appellant's election was challenged inter alia on the ground that he belonged to the Dohar caste which was not recognised as a Scheduled Caste for the district in question and so his declaration that he belonged to the Chamar caste which was a Scheduled Caste was improper and was illegally accepted by the Returning Officer. The Election Tribunal declared that the election



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was invalid. On appeal the High Court confirmed the same. This Court also dismissed the appeal pointing out that the plea that the Dohar caste is a sub-caste of the Chamar caste, could not be entertained in view of the Constitution Scheduled Castes Order, 1950 issued by the President under Article 341 of the Constitution. It is also stated that in order to determine whether or not a particular caste is a Scheduled Caste within the meaning of Article 341, one has to look at the public notification issued by the President in that behalf. The notification referred to Chamar, Jatav or Mochi. The Court observed that the inquiry, which the Election Tribunal could hold was whether or not the appellant is a Chamar, Jatav or Mochi and held thus:

'The plea that though the appellant is not a Chamar as such, he can claim the same status by reason of the fact that he belongs to the Dohar caste which is a sub-caste of the Chamar caste, cannot be accepted. It appears to us that an inquiry of this kind would not be permissible having regard to the provisions contained in Article 341.'

...

21. In *Parsram v. Shivchand*, (1969) 1 SCC 20, referring to the two Constitution Bench judgments of this Court in *Basavalingappa* and *Bhaiya Lal* aforementioned, this Court declared that: (SCC p. 24)

'These judgments are binding on us and we do not therefore think that it would be of any use to look into the gazetteers and the glossaries on the Punjab castes and tribes to which reference was made at the Bar to find out whether Mochi and Chamar in some parts of the State at least meant the same caste



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although there might be some difference in the professions followed by their members, the main difference being that Chamars skin dead animals which Mochis do not. However, that may be, the question not being open to agitation by evidence and being one the determination of which lies within the exclusive power of the President, it is not for us to examine it and come to a conclusion that if a person was in fact a Mochi, he could still claim to belong to the Scheduled Caste of Chamars and be allowed to contest an election on that basis.'

22. *In that case a good deal of evidence was adduced and arguments were advanced as to whether the word "Chamar" and "Mochi" were synonymous. This Court further observed: (SCC p. 24)*

'Once we hold that it is not open to this Court to scrutinise whether a person who is properly described as a Mochi also falls within the caste of Chamars and can describe himself as such, the question of the impropriety of the rejection of his nomination paper based on such distinction disappears.'

...

25. *Yet, again a three-Judge Bench of this Court in Palghat Jilla Thandan Samudhaya Samrakshna Samithi v. State of Kerala, (1994) 1 SCC 359, has held that neither the State Government nor the court can inquire into or let in evidence relating to any claim as belonging to Scheduled Castes in any entry of the Scheduled Castes Order. Scheduled Castes Order has to be applied as it stands until the same is amended by appropriate legislation. Para 20 of the said judgment*



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reads thus: (SCC pp. 365-66)

'20. Learned counsel for the State relied upon the decision in Bhaiya Ram Munda v. Anirudh Patar, (1970) 2 SCC 825, referred to in para 15 of the judgment in Srish Kumar Choudhury case, 1990 Supp SCC 220, for the view taken there was that evidence was admissible for the purpose of showing what an entry in the Presidential Order was intended to mean. In paras 8, 9, 10 and 11 of the judgment in Srish Kumar Choudhury case the Constitution Bench judgments referred to above are discussed, as also two other judgments taking the same view. Then, in para 14, the judgments of this Court in the case of Dina v. Narain Singh, 38 ELR 212, and Bhaiya Ram Munda v. Anirudh Patar are referred to and it is stated that both were rendered by the same Bench of two learned Judges. Para 14 goes on to set out the substance of the decision in Dina case and para 15 sets out the substance of the decision in Bhaiya Ram case. In para 16 it is said: 'These authorities clearly indicate, therefore, that the entries in the Presidential Order have to be taken as final and the scope of inquiry and admissibility of evidence is confined within the limitations indicated. It is, however, not open to the court to make any addition or subtraction from the Presidential Order.' There is, therefore, no doubt that the Court in Srish Kumar Choudhury case accepted and followed, as it was bound to do, the Constitution Bench judgments and not the two-Judge judgments in the Dina and Bhaiya Ram Munda cases.'

26. In Nityanand Sharma v. State of Bihar, (1996) 3 SCC 576, the view expressed is that it is for Parliament



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to amend the law and the schedule to include or exclude from the schedule a tribe or tribal community or part of or group within a tribe or tribal community in the State, district or region and its declaration is conclusive. The court has no power to declare synonymous as equal to the tribes specified in the Order or include in or substitute any caste/tribe etc.

...

28. Being in respectful agreement, we reaffirm the ratio of the two Constitution Bench judgments aforementioned and state in clear terms that no inquiry at all is permissible and no evidence can be let in, to find out and decide that if any tribe or tribal community or part of or group within any tribe or tribal community is included within the scope and meaning of the entry concerned in the Presidential Order when it is not so expressly or specifically included. Hence, we answer Question 1 in the negative."

6. Having carried out survey as above, the Supreme Court, in *Milind* (supra), summarized the legal position as below:

"36. In the light of what is stated above, the following positions emerge:

1. It is not at all permissible to hold any inquiry or let in any evidence to decide or declare that any tribe or tribal community or part of or group within any tribe or tribal community is included in the general name even though it is not specifically mentioned in the entry concerned in the Constitution (Scheduled Tribes) Order, 1950.



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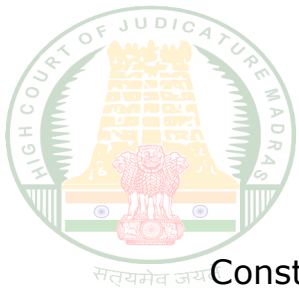
2. *The Scheduled Tribes Order must be read as it is. It is not even permissible to say that a tribe, sub-tribe, part of or group of any tribe or tribal community is synonymous to the one mentioned in the Scheduled Tribes Order if they are not so specifically mentioned in it.*

3. *A notification issued under clause (1) of Article 342, specifying Scheduled Tribes, can be amended only by law to be made by Parliament. In other words, any tribe or tribal community or part of or group within any tribe can be included or excluded from the list of Scheduled Tribes issued under clause (1) of Article 342 only by Parliament by law and by no other authority.*

4. *It is not open to State Governments or courts or tribunals or any other authority to modify, amend or alter the list of Scheduled Tribes specified in the notification issued under clause (1) of Article 342.*

5. *Decisions of the Division Benches of this Court in Bhaiya Ram Munda v. Anirudh Patar and Dina v. Narain Singh did not lay down law correctly in stating that the inquiry was permissible and the evidence was admissible within the limitations indicated for the purpose of showing what an entry in the Presidential Order was intended to be. As stated in Position (1) above no inquiry at all is permissible and no evidence can be let in, in the matter."*

7. The consistent view which has been taken time and again by the Hon'ble Supreme Court was recently reiterated in a



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Constitutional Bench judgment in the case of *State of Punjab and others v. Davinder Singh and others*, (2025) 1 SCC 1, as below:

"201. Article 341(2), as we have noted above, unambiguously prevents inclusion in and exclusion from the Scheduled Castes List by anyone except Parliament. Inclusion could be by way of extending the benefits meant for Scheduled Castes in the State, to a community that is not specifically mentioned in the State Scheduled Castes List (as was the case in Milind), by reading as a part of an enumerated entry or by reading it as a synonym of an enumerated entry. Such an exercise is not open to the States or for that matter to the courts. Only Parliament is entrusted with the power to make inclusions to or exclusions from the Lists of Scheduled Castes and Tribes. The thrust of the prohibition, as Dr Ambedkar also indicated, is a proscription on the elimination of an entry or addition of an entry to the List. Such elimination or addition, it was apprehended could arise out of political calculations in the hope of short-term electoral gains. Therefore, only Parliament is invested with the exclusive power to make such variations to the List. Any legislative effort by the State that does not either include unspecified communities or exclude specified communities from the Scheduled Castes List applicable to that State does not fall foul of Article 341(2) of the Constitution."

8. In view of the authoritative judicial pronouncements rendered time and again by the Supreme Court, it is no longer open for any party to approach this court and seek issuance of writ of



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mandamus directing consideration of any claim with regard to inclusion or exclusion of any particular community in the list of Scheduled Castes/Scheduled Tribes. No right inheres in any party to claim such inclusion or to pray for exclusion of any community from the list of Scheduled Castes/Scheduled Tribes under the Presidential Order.

As has been consistently held time and again, the same is only in the realm of legislative process. An amendment can take place only by way of parliamentary enactment and no other way.

9. The prayer for a direction to consider representation is indirectly seeking a mandamus on the claim of a subsisting right, which the petitioner does not possess as on date.

The petitioner, in effect, seeks issuance of mandamus for carrying out an amendment in the existing laws. It is well settled that no mandamus can be issued to the legislature to enact law.



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As an upshot of the above discussion, we have no hesitation to hold that this petition is not maintainable. Petition is, accordingly, dismissed. There shall be no order as to costs.

(MANINDRA MOHAN SHRIVASTAVA, CJ) (SUNDER MOHAN,J)
26.08.2025

Index : Yes/No
Neutral Citation : Yes/No

kpl

To

1. The Director
Ministry of Tribal Affairs
Government of India
Shastri Bhawan
New Delhi - 110 001.
2. The Principal Secretary to Government
State of Tamil Nadu
Adi Dravidar and Tribal Welfare Department
Secretariat
Chennai - 600 009.



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THE HON'BLE CHIEF JUSTICE
AND
SUNDER MOHAN,J.

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