BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	30.04.2025
Pronounced on	22.08.2025

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
AND
THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD) No.4475 of 2021
and
W.M.P.(MD).Nos.3596 & 3598 of 2021

V.Annamalai ... Petitioner

-vs-

1. The Chairman,
State Level Scrutiny Committee-III,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maligai,
Secretariat, Chennai–9.

2. The Commissioner of GST and Central Excise,
Department of Revenue,
Ministry of Finance, Government of India,
Office of the Commissioner of GST and Central Excise,
No.1, Goubert Avenue (Beach Road),
Puducherry-605 001. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records of the 1st respondent in its Proceedings No.8708/CV-5/2017-13 dated 18.12.2020 and quash the same.

For Petitioner : Mr.V.Vijaya Shankar
For R1 : Mr.Veera Kathiravan

Addl. Advocate General
Assisted by Mr.M.Sarangan
Addl. Govt. Pleader

For R2 : Mr.K.Govindarajan, DSGI

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ORDER

(*Order of the Court was made by* ***J.NISHA BANU,J.***)

This writ petition has been filed, challenging the impugned Proceedings No.8708/CV-5/2017-13 dated 18.12.2020 of the 1st respondent, whereby the community certificate of the petitioner was confiscated / cancelled.

2. The case of the petitioner is that he belongs to Urali (ST) community, which is classified as Scheduled Tribe (ST) under the Constitution Scheduled Tribes Order, 1950. He was issued with a community certificate on 16.01.1980 by the Tahsildar, Attur, based on which, he was appointed as Inspector of Central Excise in 1982. After serving for nearly 30 years, he attained superannuation on 30.11.2012 as Superintendent. It is further case of the petitioner that in the year 1991, the order of cancellation of his community certificate by the District Collector was set aside by this Court on 19.06.2023, holding that only the Vigilance

Committee is empowered to conduct verification. While so, after his retirement, vide notice dated 18.11.2020, he was asked to appear before the 1st respondent on 27.11.2020 and as he had suffered fracture in his shoulder, he could not appear for enquiry. Thereafter, the 1st respondent passed an order on 18.12.2020, cancelling his community certificate. Challenging the cancellation of his community certificate, this writ petition is filed. Except EL encashment and provisional pension, no other terminal benefits have been sanctioned to him.

3. Learned Additional Advocate General appearing for the 1st respondent contended that inspite of several opportunities granted to the petitioner, he did not appear for enquiry. The decision to cancel the certificate of the petitioner was taken after receipt of the adverse report from the Vigilance Cell. The petitioner has not produced any documents to substantiate that he belongs to Urali community. Moreover, in the community certificates of the siblings of the petitioner, it was mentioned that they belong to Uraly Gounder, which fall into Most Backward Class. Therefore, the 1st respondent came to the conclusion that the community certificate of the petitioner was not genuine on the basis of the concrete

evidence. He further contended that the decision to cancel the community certificate of the petitioner was purely on the basis of the various dictum laid down by the Apex Court and there is no illegality in the order of cancellation passed by the 1st respondent.

4. Heard the learned counsel for the petitioner, the learned Additional Government Pleader appearing for the 1st respondent, Mr.K.Govindarajan, learned Deputy Solicitor General of India for R2 and perused the material documents available on record.

5. It is seen from the records that the petitioner joined the services of Central Excise as early as in 1982 and retired from service on 30.11.2012. Therefore, cancellation of his community certificate, after a long time, that too, after a lapse of nearly 8 years of his retirement is uncalled for. When there is a specific time frame fixed for conducting enquiry and taking action pursuant thereto as well, the respondents cannot take their sweet time to cancel the certificate, that too, after retirement with an intention to convert the entire services put in by the petitioner meaningless, which is against the ratio laid down by the Supreme Court and

the Officials Memorandum issued by the Government from time to time.

6. The Apex Court in the case of ***R.Sundaram vs. The Tamil Nadu State Level Scrutiny Committee and Others dated 17.03.2023***, in Paragraph No.16 held as follows:-

> "16. It has been explicitly stated by this court that the exercise of verification of community certificate must be completed expeditiously. In the present case, however, as has been mentioned above, there has been an inordinate and unexplained delay of 19 years, an amount of time which cannot be fathomed, within the ambit of 'reasonable time'."

7. In yet another case, the Supreme Court in the case of SLP(C) No.24458/2019 dated 03.03.2023, was pleased to hold as under:

> "It is submitted that the respondent No.1 who served in the Railways has superannuated on 28.02.2022 and therefore, the exercise in this case would largely be academic on the aspect of whether she belonged to the claimed Scheduled Tribe category. Considering the above, we deem it is appropriate to order for closure of the proceedings. Accordingly, the Special leave Petition stands disposed of."

8. The decision rendered by the Supreme Court in the case of ***Kumari Madhuri Patil vs. Additional Commissioner***, reported in ***1995 AIR 94*** weighs much importance in the case on hand, had elaborately dealt with the issue of community certificate and observed that as per Article

15(4) of the Constitution of India, it is for the State to make special provisions for advancement of Scheduled Castes and Scheduled Tribes. Further, it was observed that in the light of Article 16(1), equality of opportunity to all citizens in matters of appointments to an office or a post under the Union or a State Government or public undertakings etc., should be ensured. For that purpose, Article 16(4) empowers the State to make provisions for reservation of appointments or posts in favour of classes of citizens not adequately represented in the services under the State.The Hon'ble Supreme Court, in the said judgment while issuing certain guidelines, insisted that the community certificate in respect of SC/ST should be scrutinised at the earliest. For the sake of convenience, relevant paragraphs of the judgment are reproduced below:

> "It is, therefore, necessary that the certificates issued are scrutinised at the earliest and with utmost expedition and promptitude. For that purpose, it is necessary to streamline the procedure for the issuance of social status certificates, their scrutiny and their approval, which may be the following:
>
> > 1. The application for grant of social status certificate shall be made to the Revenue Sub-Divisional Officer and Deputy Collector or Deputy Commissioner and the certificate shall be issued by such officer rather than at the Officer, Taluk or Mandal level.
> >
> > 2. The parent, guardian or the candidate, as the

case may be, shall file an affidavit duly sworn and attested by a competent gazetted officer or non-gazetted officer with particulars of castes and sub-castes, tribe, tribal community, parts or groups of tribes or tribal communities, the place from which he originally hails from and other particulars as may be prescribed by the Directorate concerned.

3. Application for verification of the caste certificate by the Scrutiny Committee shall be filed at least six months in advance before seeking admission into educational institution or an appointment to a post.

4. All the State Governments shall constitute a Committee of three officers, namely, (1) an Additional or Joint Secretary or any officer higher in rank of the Director of the department concerned, (11) the Director, Social Welfare/Tribal Welfare/Backward Class Welfare, as the case may be, and (III) in the case of Scheduled Castes another officer who has intimate knowledge in the verification and issuance of the social status certificates.

In the case of the Scheduled Tribes, the Research Officer who has intimate knowledge in identifying the tribes, tribal communities, parts of or groups of tribes or tribal communities.

5. Each Directorate should constitute a vigilance cell consisting of Senior Deputy Superintendent of Police in over-all charge and such number of Police Inspectors to investigate into the social status claims. The Inspector would go to the local place of residence and original place from which the candidate hails and usually resides or in case of migration to the town or city, the place from which he originally hailed from. The vigilance officer should personally verify and collect all the facts of the social status claimed by the candidate or the parent or guardian, as the case may be. He should also examine

the school records, birth registration, if any. He should also examine the parent, guardian or the candidate in relation to their caste etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all particulars as envisaged in the pro forma, in particular, of the Scheduled Tribes relating to their peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. by the castes or tribes or tribal communities concerned etc.

6. The Director concerned, on receipt of the report from the vigilance officer if he found the claim for social status to be "not genuine" or 'doubtful' or spurious or falsely or wrongly claimed, the Director concerned should issue show-cause notice supplying a copy of the report of the vigilance officer to the candidate by a registered post with acknowledgement due or through the head of the educational institution concerned in which the candidate is studying or employed. The notice should indicate that the representation or reply, if any, would be made within two weeks from the date of the receipt of the notice and in no case on request not more than 30 days from the date of the receipt of the notice."

9. Keeping in mind the above judgment of the Apex Court, an Office Memorandum was issued on 24.12.2020 by the Joint Secretary, Lok Sabha Secretariat. The relevant portions of the Office Memorandum are extracted hereunder:

"...It is pertinent to mention that the Departments/Banks/PSUs have not adhered to the above mentioned guidelines of DoP&T and CVC and also it is not in conformity with the Hon'ble Supreme Court judgment delivered vide Kumari Madhuri Patil Vs. Addl. Commissioner in 1995 AIR 94, 1994 SSC (6) 241 Order dated 02.09.1994

since this judgment can only be implemented in prospective.

2. Here, it is pertinent to bring to your notice DoP&T OM no.230/08/2005-AVD II dated 25.05.2005, which clearly states the following:-

> "Government has, therefore decided that a detailed verification of all such certificates produced before various appointing authorities since 1995 be carried. The CVOs are requested to initiate this task by collecting the details of all those who had been appointed in the Ministries/Departments or agencies including CPSUs with which they are concerned, since 1995 on the strength of ST certificates.

2. Keeping in view the above mentioned facts, it is requested that the concerned State Level Scrutiny Committee be directed to verify the ST caste certificates of only those employees who were appointed ***after the year 1995 and the process of verification should be completed within two months***. The Action Taken Report in this regard may be please be forwarded to this Secretariat at the earliest but not later than 18.02.2021 so that the same may be placed before the Committee."

10. The above referred Office Memorandum makes it very clear that community certificates of employees, who were inducted into Government Service after 1995 can alone be subjected for scrutiny / verification. To be more precise, it is incumbent on the employers / authorities to conduct verifications ideally at the time of an employee's entry

into service, so as to ensure the accuracy and integrity of personnel records.

11. In furtherance thereof, the Government of India, Ministry of Personnel, PG & Pensions, Department of Personnel and Training issued instructions dated 21.10.2022 to all State / UT Governments, insisting upon the need for timely verification of Caste / Community certificates, indicating as follows:

> "3. In this regard, it is reiterated that the responsibility for the issue and verification of Caste Certificate lies with the concerned State / UT Government. The Hon'ble Supreme Court, vide its order dated 02.09.1994 in the matter of Kumari Madhuri Patil vs. Addl. Commissioner, has laid down the detailed guidelines for effective verification of the Caste Certificates of the employees by the State Government, so that no person, on the basis of fake caste certificate, may secure employment wrongfully in the Government."

12. On a reading of the aforesaid instructions, it is apparent that the Government of India is very keen in curbing the wrongful entry of an employee in the Government Service based on the fake community certificate and issued instructions to all State / UT Governments for verification of the community certificates at the earliest point of time.

13. In an another Office Memorandum dated 30.11.2021,

issued by the Government of India, Ministry of Personnel, PG & Pensions, Department of Pension & Pensioner's Welfare strictly instructed concerned Departments that unless departmental or judicial proceedings are pending against a retired employee, the pensionary / retirement benefits due to the retiring employee should not be withheld or delay on the ground of pendency of verification of caste certificate.

14. Learned counsel for the petitioner drew our attention to the Government Order dated 15.10.2012 issued by the Government of Tamil Nadu, constituting a District Level Vigilance Committee and State Level Scrutiny Committee to verify the genuineness of the community certificates. Vigilance Cells at Chennai, Salem, Trichy and Madurai were also formed to verify the community status and submit a report to the Committee. In the Government Order, the functions of the Vigilance Cells have been enumerated and a time frame has also been fixed for completion of enquiry, which reads as follows:

> "vii) The inquiry should be completed as expeditiously as possible preferably by day to day proceedings within such period ***not exceeding two months.*** If after inquiry, the competent committee finds the claim to be false or spurious, they should pass an order cancelling the certificate issued and

> confiscate the same. It should communicate within one month from the date of the conclusion of the proceedings the result of enquiry to the parent / guardian and the applicant."

15. In the light of various judgments of the Supreme Court and also the guidelines / instructions / GO issued by both Government of India and State Government, from time to time, we are of the view that the respondents cannot keep the matter pending for months / years together in the garb of verification of community certificate, especially when there is a specific time frame fixed for completion of such verification and thereafter, wake from slumber suddenly to cancel the certificate. .

16. In this case, he joined the Central Excise in the year 1982 and also retired from service on 30.11.2012. Therefore, the verification / cancellation of his community certificate at this belated stage is not in consonance with the judgment of the Supreme Court and guidelines issued by the Government. Hence, we have no other option, but to set aside the impugned proceedings.

17. Learned counsel for the petitioner would state that the petitioner at this age is finding difficult to appear for enquiry before the officials and therefore, the petitioner would state that he is willing to

surrender his community certificate and he will not claim concessions to his children on the basis of his community certificate.

18. In the result, the Writ Petition is allowed. The impugned Proceedings No.8708/CV-5/2017-13 dated 18.12.2020 of the 1st respondent is hereby set aside. The petitioner shall surrender his community certificate *(if not already surrendered)* to the concerned Officials on due acknowledgment. ***The undertaking given by the petitioner dated 03.04.205 that he will not make any claim or derive concessions to his child/children on the basis of his caste certificate is hereby recorded and the same shall form part of this order.*** In case, any application for issuance of community certificate is made by the son/s or daughter/s of the petitioner in future for the purpose of education, employment, etc., an independent enquiry can be conducted by following due process of law and a decision shall be taken in respect of issuance of community certificate within a period of two months (2) from the date of receipt of application, if any made, bearing in mind the judgment of the Supreme Court / guidelines and the Government Order issued by the State Government dated 15.10.2012 (referred to supra). No costs. Consequently, connected miscellaneous

petition are closed.

(J.N.B.J.,) **(S.S.Y,J.,)**
22.08.2025

Index: Yes / No
Internet: Yes / No
Speaking Order / Non Speaking Order
sts/ar

To:

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State Level Scrutiny Committee-III,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maligai,
Secretariat, Chennai–9.

2. The Commissioner of GST and Central Excise,
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J.NISHA BANU, J.

AND

S.SRIMATHY, J.

sts/ar

PRE-DELIVERY ORDER IN

W.P.(MD) No.4475 of 2021

22.08.2025