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W.P.No.4484 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

| | | |
|----------------------|----------|-------------------|
| RESERVED ON | : | 11.07.2023 |
| PRONOUNCED ON | : | 24.08.2023 |

CORAM :

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.4484 of 2021
and W.M.P.Nos.5110 & 5116 of 2021

V.Perumal

... Petitioner

Vs.

1.Tamil Nadu State Level Scrutiny Committee – III,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maligai,
Secretariat, Chennai 600 009
repd. By its Chairman

2. The Bank of Baroda,
Rep. By its Deputy General Manager,
Zonal Office, Baroda Pride,
New No.41, Old No.101,
1st Floor, Luz Church Road,
Mylapore, Chennai 600 034



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3. The Bank of Baroda,
Rep. By Deputy General Manager,
Regional Office (Madurai Region),
2nd Floor, Aparna Towers,
No.2,3, Bye-pass Road,
Madurai 625 016

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the proceedings of the first respondent i.e. Tamil Nad State Level Scrutiny Committee dated 24.12.2020 and quash the same and consequently direct the respondents 2 and 3 to continue to pay the provisional pension to the petitioner.

For Petitioner : Mr.N.Naganathan

For R-1 : Mr.P.Gurunathan,
Addl. Government Pleader

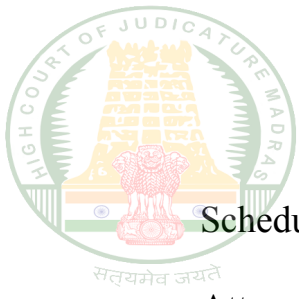
For RR 2 & 3 : Mr.S.B.Keerthana
For M/s.T.S.Gopalan & Co.

ORDER

J.NISHA BANU, J.

Heard the counsels for both sides.

2. The issue involved, in brief, is that the petitioner got appointed to Bank of Baroda in the year 1989, under reservation category, earmarked for



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Scheduled Tribes. He had presented a caste certificate issued by Tahsildar, Attur as 'Hindu Kaatunayakam' community belonging to the Scheduled Tribe.

Until 2015, there had been no problem and thereafter, the Bank of Baroda filed W.P.No.8573 of 2015 before this Court. This Court disposed of the petition directing the State Level Enquiry Committee to conduct enquiry and pass orders on merit.

3. Even when the proceeding was pending, the petitioner attained superannuation on 31.12.2018. The terminal benefits including pension, leave encashment, commutation etc. were not paid. Therefore, the petitioner filed W.P.No.7490 of 2019 before this Court. This Court, disposed of the petition, by directing Bank of Baroda to consider the claim of the petitioner herein, on merits, after providing due opportunity of hearing the petitioner.

4. In compliance of the above order of this Court, the petitioner was given an opportunity and he had put forth his case before the respondent Bank on 09.09.2019. Thereafter, the respondent Bank issued a letter, dated 23.09.2019, enclosing the minutes of personal hearing held on 09.09.2019. In



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the letter, they stated that they are following up with the Committee and stated that the petitioner may also follow up with the Committee. The request to pay gratuity was also repelled by the respondent Bank, citing an order of this Court, which got eventually overturned by the Hon'ble Supreme Court.

5. As the respondent Bank could not pass orders as directed by this Court in order dated 29.03.2019 in W.P.No.7490 of 2019, the petitioner filed a 3rd writ petition in W.P.No.34794 of 2019 before this Court for issue of writ of Mandamus, directing the respondent Bank to disburse all retirement monetary benefits, including pension etc. and that petition is still pending.

6. Thereafter, vide proceeding No.7551/CV-5/2015-12 dated 24.12.2020, the State Level Committee found his caste certificate false and withdrew his certificate. It refused to consider the adjournment of hearings sought by the petitioner on health/COVID grounds. It held that he belonged to 'Hindu Man ottar community' and not 'Hindu Kaatunayakken community'. Now, the petitioner fears that along with the retirement benefits that accrued out of his services, his provisional pension could also be stopped. Therefore, he filed this Writ Petition to quash the order of the State Level Committee,

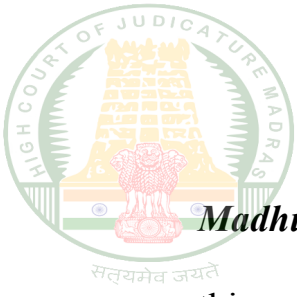


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mainly on the ground of violation of the principles of natural justice as he was not provided with effective opportunity to produce evidences to defend his case. He had also sought to stay the order pending disposal of this writ petition.

7. The menace of unscrupulous individuals manoeuvring the system to obtain false caste certificates and securing admissions to education institutions and employment in Government and public sectors effectively depriving the constitutional rights of deserving communities had been a challenge for public administration for many reasons. The fact that very often, the applications for community certificates are moved by parents/guardians when the beneficiaries are still minors, compounds the problem. The complexity of the best known methods and the enormity of time in probing the anthropological roots of the individuals to determine their caste/community adds up to the challenge. This lead to courts taking varying decisions at varying points of time on matters of admissions and employment secured on the basis of false caste/community certificates.

8. The decision of the Hon'ble Supreme Court in the case of *Kumari*

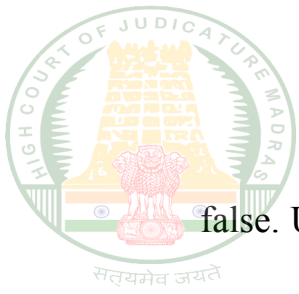


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Madhuri Patil vs Addl. Commissioner reported in **1995 AIR 94** addressed

this problem at large to issue comprehensive guidelines to Authorities to check the problem of undeserving candidates, snatching the constitutional rights of deserving communities by design or default. In its erudite order, the Hon'ble Supreme Court had elaborately discussed the constitutional provisions for affirmative action and the principles of equality to all to arrive at its more rational conclusions. In the said case, the Hon'ble Court found that the certificate was false and held that the petitioner can't claim equity with tainted hands. In the process, it ordered to cancel the admission of the petitioner. In the same breath, the Hon'ble Court allowed her sister to appear for the final exam to complete the course legitimising the admission by its discretionary power. It expressly precluded using of the same as precedence.

9. The above judgment lends clarity to approach the problem. It would have been a complete dogma for the problems discussed in this writ petition, had the beneficiaries agitating the case been ones who had completed their studies or superannuated after gaining admission/employment by representing to belong to certain reserved categories that later proved to be



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false. Unfortunately, the beneficiaries agitating the said case, who had gained wrongful admission, were still studying. Therefore, the Hon'ble Supreme Court did not have the occasion to address the question as to whether it is fair to strip off the degrees obtained or the benefits accrued out of services rendered gained through wrongful admission or employment.

10. The search for answers to the questions surrounding the problem culminated in the issue of, inter alia, the O.M. dated 24.12.2020 of the Lok Sabha Secretariat (Parliamentary Committee on the welfare of scheduled Castes and Scheduled Tribes). The above O.M. has now become a matter of public policy. It has accommodated the principles enunciated in the decision of the Hon'ble Supreme Court in the *Kumari Madhuri Patil's* case(cited supra). The O.M. stipulates 1995 as the cut off date from which verification process to check the veracity of the caste certificates of candidates availing reservations shall be taken up.

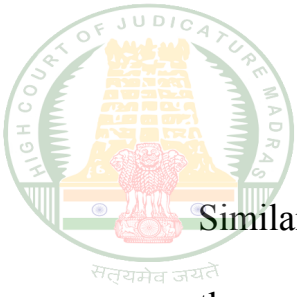
11. It also contemplated immediate verification of the truthfulness of caste claims for new admissions/appointments under the constitutional rights



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of reservations to the vulnerable communities. It directed completion of the verifications about the veracity of caste/community certificates within 2 months. In effect a fair proposal was drawn through the O.M. to address the problem confounding the abuse of the scheme. The decision to limit the period of exercise to 25 years preceding the date of the issue of O.M. is a just and fair balancing act in the light of the observations in the ***Kumari Madhuri Patil's*** case(cited supra). The prescription in the O.M. is fairer because, very often the parents make the claims and sometimes it becomes literally impossible for certain classes of people to establish their caste/community through evidences.

12. Therefore, in the background of the peculiar nature of the issue confronting the just implementation of the constitutional right of reservation, I am of the considerate view that for the appointments that happened before 1995, it is not open for the Central Government, State Government and Public Sector Undertakings to deny continuous employment or post retirement benefits on the basis of a post facto finding of falsity of claims or doubtful caste/community certificates presented at the time of appointments.



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Similarly, in the light of the instructions contained in O.M. dated 24.12.2020, the question of stripping of degrees and denying retirement benefits on the ground of false certificates will cease to exist. Consequent to the issue of the O.M. dated 24.12.2020, the proceedings of the State Level Committee is of no consequence to the facts and circumstances of this case

13. In view of the above, the respondent Bank is directed to pay all retirement benefits that accrue on the petitioner, within a period of eight (08) weeks from the date of issue of a copy this order. Thus, the Writ Petition is allowed on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

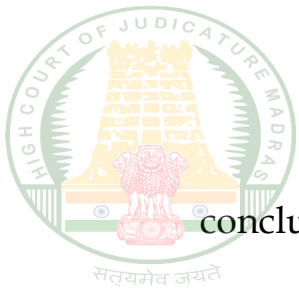
.08.2023

sts

N.MALA, J.

I have had the benefit of going through the Opinion of Respected Sister. I am unable to agree with the reasonings or the conclusion reached by Her Ladyship and I therefore give my own reasoning and

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conclusions.

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2. This Writ Petition is filed for issuance of Writ of Certiorarified Mandamus to call for the proceedings of the 1st respondent i.e Tamil Nadu State Level Scrutiny Committee-III dated 24.12.2020 and quash the same and consequently direct the Respondents 2 and 3 to continue to pay the provisional pension to the petitioner.

3. The writ petition is filed challenging the order of the Tamil Nadu State Level Scrutiny Committee-III dated 24.12.2020 cancelling the petitioner's Hindu-Kaatunayakan Schedule Tribe community certificate. The petitioner was selected and appointed in the clerical cadre under the quota reserved for scheduled tribes in the 3rd respondent bank in the year 1989. The petitioner produced the community certificate issued by the Tahsildar Attur, dated 17.03.1980 in support of his case that he belonged to the Hindu-Kaatunayakan Schedule Tribe community. The services of the petitioner were



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confirmed by the 3rd respondent bank and the petitioner superannuated on 31.12.2018.

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4. According to the petitioner, at the instance of certain persons inimically disposed against him, the genuineness of his community certificate was questioned. The petitioner was given to understand that the 3rd respondent bank filed writ petition in W.P.No.8573 of 2016, which was disposed of by this Court on 09.03.2016 directing the State Level Scrutiny Committee-III to conduct enquiry and pass orders on merits.

5. While so, the petitioner who was allowed to continue in service Retired. The petitioner filed W.P.(MD).No.7490 of 2019 for a direction to the 3rd respondent bank to release his terminal benefits including pension, leave encashment, commutation etc. The said writ petition was disposed of on 29.03.2019 directing the 3rd respondent bank to consider the claim of the petitioner on merits and after



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providing due opportunity of personal hearing. The petitioner was given personal hearing on 09.09.2019 and the 3rd respondent bank vide letter dated 23.09.2019 informed the petitioner that follow up action was taken up with the committee. The petitioner was also requested to follow up the matter with the committee for earlier disposal. In the meantime, the petitioner approached the Assistant Labour Commissioner (Central) for payment of Gratuity under Sub Rule 1 of Rule 10 of Payment of Gratuity (Central) Rules, 1972 for non payment of gratuity. Whiles, the 3rd respondent bank addressed a letter to the Assistant Commissioner of Labour on 08.11.2019 praying to stop the release of terminal benefits to the petitioner by citing the Judgment of this Court reported in 2014 (3) LLJ Pg. 31 (Mad).

6. The petitioner thereafter filed W.P.No. 34794 of 2019 for a Writ of Mandamus directing the respondent to disburse all monetary retirement benefits and pension etc. to him and the said writ petition



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is said to be still pending.

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7. The Tamil Nadu State Level Scrutiny Committee-III commenced its proceedings for verification of the community certificate of the petitioner and the notice was issued to the petitioner to appear for enquiry on 24.11.2020. On 21.11.2020, the petitioner sent a letter to the committee requesting further time for his appearance citing health grounds. According to the petitioner, as the said notice was the first notice of hearing received by him, the petitioner was awaiting communication about the next hearing date. To the shock and surprise of the petitioner, the Tamil Nadu State Level Scrutiny Committee III passed the impugned order dated 24.12.2020 cancelling as incorrect the community certificate of the petitioner issued by the Tahsildar, Attur dated 29.05.1988. The petitioner therefore filed the above writ petition challenging the said impugned order.

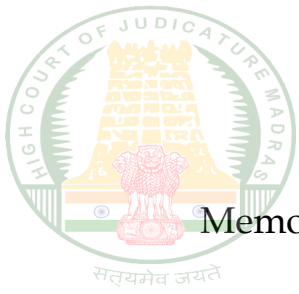
8. The 1st respondent filed detailed counter denying all the



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averments made in the writ petition apart from supporting the impugned order.

9. At the time of hearing, the learned counsel for the petitioner submitted that the impugned order was unsustainable, as it was passed in violation of the principles of natural justice. According to the counsel, no proper enquiry was conducted by giving fair and reasonable opportunity of hearing to the petitioner to justify his claim that he belonged to the Hindu-Kaatunayakan Schedule Tribe community. The learned counsel further submitted that in the office memorandum issued by the Lok Sabha Secretariat (Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes) dated 24.12.2020, a clear direction was given to the State Level Scrutiny Committees to verify the Schedule Caste certificates of those employees who were employed after the year 1995 and the process of verification was directed to be completed within two months. The learned counsel therefore submitted that, as per the said Office

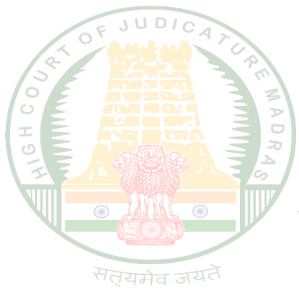


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Memorandum, the community certificates of employees appointed before 1995 could not be subjected to verification. The counsel therefore submitted that the Tamil Nadu State Level Scrutiny Committee-III had no jurisdiction to verify the community certificate of the petitioner which was issued to him on 29.05.1988.

10. Though Several grounds were raised in the writ affidavit, at the time of hearing, the arguments were restricted to the aforesaid two grounds.

11. The learned counsel for the respondent on the other hand submitted that the Tamil Nadu State Level Scrutiny Committee-III had given ample opportunity to the petitioner to substantiate his claim of belonging to the Hindu-Kaatunayakan Schedule Tribe community and therefore there was absolutely no justification in the contention of the petitioner that there was violation of principles of natural justice.



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12. As far as Office Memorandum of the Parliamentary Committee is concerned, the respondent submitted that petitioner had approached the Parliamentary Committee along with others for a direction to the State Level Scrutiny Committees to dispose of the cases early. Thereafter, the State Level Scrutiny Committee-III called the petitioner for further hearing on 24.11.2020 and passed the impugned order. The learned counsel submitted that the contention of the petitioner that as per the Office Memorandum issued by Lok Sabha Secretariat (Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes) dated 24.12.2020, no verification of his community certificate could be undertaken was fallacious.

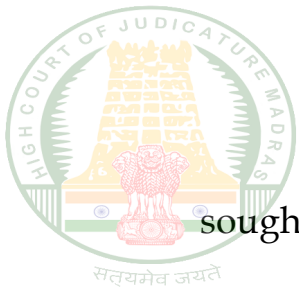
13. I have heard both the learned counsels and I have perused the materials placed on record.

14. The first contention of the learned counsel for the petitioner



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that no fair or reasonable opportunity of hearing was afforded to the petitioner and therefore there was gross violation of principles of natural justice, is concerned, it is seen that a show cause notice was issued to the petitioner on 01.09.2016 calling for his explanation and for appearance. The petitioner neither appeared nor sent any reply enclosing the copies of documents to substantiate his Hindu-Kaatunayakan Schedule Tribe community status. Thereafter in pursuance of the direction issued by this Court in its order dated 09.03.2016 in W.P.No.8573 of 2016 filed by the 3rd respondent bank, the petitioner was called to attend enquiry proceedings before the 1st respondent on 22.11.2019 with all connected documents to prove his Scheduled Tribe caste status, but the petitioner instead of sending the documents or appearing in person sent a letter on 19.11.2019 to grant extension of time on health grounds. Thereafter, on the direction of the Parliamentary Committee on Welfare of SC/ST to dispose of the cases early, a further notice for enquiry on 24.11.2020 was sent to the petitioner. The petitioner again remained absent on 24.11.2020 and



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sought time vide his letter dated 21.11.2020 on health grounds. As the petitioner had failed to utilise the aforesaid opportunities to substantiate his status of Scheduled Tribe community, the 1st respondent examined the matter on the basis of the records and also on the basis of the enquiry report of the Vigilance Cell, Anthropologist report and the local enquiry report of the Revenue Divisional Officer (RDO), Attur, Salem District and concluded that the petitioner failed to prove that he belonged to Hindu-Kaatunayakan Schedule Tribe community.

15. It is further pertinent to note here that the petitioner admitted his absence on 22.11.2019 and 24.11.2020, but according to the petitioner he was unable to attend the enquiry on health grounds. It is seen from the impugned order as well as the counter affidavit filed, that the petitioner even though was afforded sufficient opportunity to reply to the report of the Vigilance Cell to produce documents to appear for enquiry, the petitioner failed to utilise the



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said opportunities and therefore the contention of the petitioner that

he was not afforded with fair and sufficient opportunity is untenable

and rejected. It is seen from the report of the Vigilance Cell that the

petitioner did not participate in the enquiry and it is further seen from

the said report that in pursuance to the order in W.P.Nos'. 7461 and

7462 of 2011, the petitioner was summoned for enquiry before the

District Level Vigilance Cell to support his community certificate on

21.11.2007, 06.05.2008, 01.06.2011, 15.07.2011, 08.09.2011, 16.11.2011,

30.04.2012, 27.02.2013, 12.08.2013, 09.01.2014, 28.03.2014, 15.04.2014,

03.02.2015 and 03.08.2015, however, the petitioner did not appear even

for a single enquiry. Hence it is seen that the petitioner was given

ample opportunity. I am therefore of the view that there is absolutely

no violation of principles of natural justice and the petitioner has

himself to blame, as he had consciously failed to participate in the

enquiry, inspite of repeated notices.

16. The next contention of the petitioner was that as per the



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Office Memorandum of Lok Sabha Secretariat (Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes)

dated 24.12.2020, the State Level Scrutiny Committee-III could not proceed with the enquiry. According to the counsel, as the Parliamentary Committee had directed the State Level Scrutiny Committees to verify the Scheduled Tribe caste certificates of only those employees who were appointed after the year 1995, the State Level Scrutiny Committee-III had no jurisdiction to verify the community certificate of the petitioner which was issued long prior to 1995. The Office Memorandum issued by Lok Sabha Secretariat (Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes) dated 24.12.2020 is extracted hereunder:



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MOST IMMEDIATE
By Speed Post/Spl. Messenger

LOK SABHA SECRETARIAT

(PARLIAMENTARY COMMITTEE ON THE WELFARE OF SCHEDULED CASTES AND SCHEDULED TRIBES)

Telegram : LOKSABHA, NEW DELHI
Fax : 011-23012840/23010756
Email : comscst@sansad.nic.in

Room No. 010(G/F),
Parliament House Annex, New Delhi - 110001.

No. 57/11/SCTC/2019

Dated: 24th December, 2020

OFFICE MEMORANDUM

Subject: Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes - "Study of atrocity cases against Scheduled Castes and Scheduled Tribes with respect to implementation of the Prevention of Atrocities Act, 1989"- regarding release of retirement benefits to those SC/ST employees whose caste certificate is pending verification.

.....

The undersigned is directed to refer to this Secretariat OM of even number dated 14th December, 2020 on the issues discussed during the meeting held on the sitting held in connection with the above mentioned subject and to state that DoP&T OM no. 230/08/2005-AVD II dated 25.05.2005 & DoP&T OM no. 36011/3/2005-Estt(Res) dated 09-09-2005, "Verification of SC/ST Caste Certificate and CVC Circular No. 98/DSP/9(Part-2) dated 07-03-2016, "Action on Anonymous /Pseudonymous Complaint "(copy enclosed) clearly stipulate the verification of the ST caste certificates of only those employees who were appointed after 1995 under Ministries/Departments including CPSUs or on initial appointment /Promotion. Moreover as per CVC guidelines, no action should be taken on Anonymous/Pseudonymous Complaints. In the present cases there is an inordinate delay in initiation of verification of caste certificates, and 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 judgement delivered vide Kumari Madhuri Patil Vs Addl Commissioner in 1995 AIR94, 1994SSC(6)241 Order dated 02.09.1994 since this judgement 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



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- 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 Committees 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 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.
3. The Committee has also unanimously decided that the RDO, Tiruttani, should be directed to issue caste certificate to all those Children whose parents possess the Kondareddy Caste Certificate issued by the competent authority without further delay. The Action Taken Report in this regard may also be furnished to the Committee latest by 18.02.2021
3. Receipt of this communication may kindly be acknowledged.


(D.R. SHEKHAR
JOINT SECRETAR
Tel:23034247

To:
The Chief Secretary,
Government of Tamil Nadu,
Tamil Nadu Secretariat,
Fort St. George, Chennai – 600009,
Tamil Nadu.

No. 57/1/ISCTC/2019

Dated: 24th December, 202

Copy forwarded for information to:

The Resident Commissioner of Tamil Nadu,
Tamil Nadu House
Kautilya Marg
New Delhi-110021


JOINT SECRETAR

It is seen from a reading of the O.M, that the O.M proceeds on a



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misconception that the Judgment of the Hon'ble Supreme Court in

Kumari Madhuri Patil Vs. Addl. Commissioner in 1995 AIR SC 94, is

prospective in operation. It is trite in law that any declaration of the

law by the Court unless and until it is specifically stated to be

applicable prospectively is retrospective in operation. This is referred

only to show that the O.M. suffers from misconception of law on the

operation of the Judgment. In this regard the Judgment of the Hon'ble

Supreme Court in the case of *Manoj Parihar and Others Versus State of*

Jammu & Kashmir and Others reported in 2022 SCC OnLine SC 782 in

para 26 is referred to and it reads as follows:

“26. What was done in Bimlesh Tanwar (supra) was actually a declaration of law. Therefore, the same will have retrospective effect. In P.V. George v. State of Kerala, (2007) 3 SCC 557, this Court held that “the law declared by a court will have retrospective effect, if not otherwise stated to be so specifically”.

17. It is seen from the O.M that inordinate delay in initiation of

verification of caste certificates and non-adherence to the guidelines



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issued by DoP&T O.M., CVC circular and the Hon'ble Supreme Court

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in the case of *Kumari Madhuri Patil Vs Addl Commissioner* were referred

to, for directing the verification of the Scheduled Tribe caste

certificates of only those employees who were appointed after 1995. It

is to be seen, if mere delay in initiating and concluding the

proceedings by the State Level Scrutiny Committee would validate an

act of fraud. It is to be noted that when fraud is perpetrated, the

parameters for consideration would be wholly different because as

observed by Lord Denning in *Lazarus Estate Ltd. v. Beasley* (1956) 1 QB

702 " Fraud unravels everything." The Hon'ble Supreme Court in the

case of *Bank of India & Anr. Vs. Avinash D.Mandivikar & Ors.* In Appeal

(civil) No.347 of 2004 dated 14.09.2005 held that "mere delayed

reference when the foundation for the same is alleged fraud does not

in any way affect legality of the reference". Therefore the reasoning

that the inordinate delay in initiation of verification of caste

certificates and non conformity with the guidelines in *Kumari*

Madhuri Patil's case (with regard to the time line) cannot be sustained



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particularly, when fraud is alleged. As stated, fraud vitiates everything and therefore there cannot be a cut off date for verification of the community certificates, tainted with fraud. Consent to the self serving interpretation given to the O.M. by the petitioner would be a fraud on the constitution itself. The Hon'ble Supreme Court in *Raju Ramsing Vasave v. Mahesh Deorao Bhivapurkar and Others* reported in 2008 (9) SCC 54 held as follows:

"28. We reiterate that to fulfil the constitutional norms, a person must belong to a tribe before he can stake his claim to be a member of a notified Scheduled Tribe. When an advantage is obtained by a person in violation of the constitutional scheme, a constitutional fraud is committed."

18. Further, it is one thing to say that the verification could be made only for appointments from 1995 and another thing to say that any verification for appointments before 1995 need not be made. To give an interpretation to the O.M. as if, it debars the Scrutiny Committees from verifying the genuineness of ST certificates issued before 1995 would be absurd and unreasonable as such an



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interpretation will be putting a premium on fraud. It would be like saying that any fraud that was committed before 1995 could be ignored and only fraud committed after 1995 could be brought to book. To further exemplify it would be like stating that any person found guilty of corruption of over Rs.10,000/- alone can be penalised and persons indulging in corruption of a lesser sum can be allowed to go scot-free. Therefore the contention of the petitioner that any certificate issued before 1995 could not be verified by the State Level Scrutiny Committee, as per O.M. dated 24.12.2020 is untenable.

19. Coming to the facts of the present case, it is seen that the State Level Scrutiny Committee-III has meticulously dealt with all the materials placed before it and has concluded that the community certificate produced by the petitioner was incorrect. The Vigilance Cell, in its report dated 23.12.2016 found that the petitioner's 6th standard school certificate, birth register, secondary school leaving certificate and the petitioner's brother's 8th standard school certificate



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revealed that the community of the petitioner was recorded as Hindu

Ottar and not Hindu Kattunayakan Scheduled Tribe community. It is

also seen from the Vigilance Cell report that the petitioner's brother's

son by name Vijayaraghavan was issued with the community

certificate on 20.06.2005 by the Special Deputy Tahsildar, Thuraiyur,

certifying that he belonged to 'Hindu Ottar' community which was an

MBC community.

20. The VAO in his report dated 28.09.2016 categorically stated that the village did not have any member belonging to the Hindu Kattunayakan Scheduled Tribe community. In the Anthropologist report, it was stated that spot enquiry was conducted on 09.12.2016 to generate information about the cultural aspects of the petitioner's community at empirical level. It was further stated that the petitioner had not revealed any cultural aspect of the community, that his family members married among other caste/ groups, that the marriage pattern was completely different and that the petitioner was not able



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to give details about the migratory roots about original natives of the community, which would have helped the Anthropologist to gather further details of the culture. Therefore the Anthropologist found that the petitioner was not able to substantiate his claim of belonging to the Hindu Kattunayakan Scheduled Tribe community and further concluded that the case was not genuine one.

21. Even the sale deeds produced by the petitioner were considered by the Vigilance Cell and it was found that the documents did not support the petitioner's case. As far as document dated 31.03.1980 was concerned, the Vigilance Cell found that the same was created for the purpose of record to show that the petitioner belonged to Hindu Kattunayakan Scheduled Tribe community. So also the document dated 31.03.1980 which was executed soon after the petitioner was issued with the community certificate by the Tahsildar on 17.03.1980. As far as document numbers 226/1983 and 2003/1985 are concerned, the document was executed by one

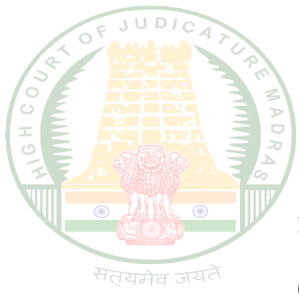


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Krishnaswamy, belonging to Kattunayakan Scheduled Tribe community in favour of Periyannan Muthuraju and Tamilarasi and the document of the year 1983 was executed between Thangaraju and Sinnaraju and Sellammal. The community of the persons stated therein was shown as 'Nayakan' community. The Vigilance Cell held that the petitioner was not able to substantiate the said documents relevance and therefore concluded that the aforesaid documents were all created for the purpose of record.

22. Having gone through the entire materials placed on record and the aforesaid reports of the Vigilance Cell, VAO and the Anthropologist report, the State Level Scrutiny Committee-III found that the petitioner failed to substantiate his communal status. The Hon'ble Supreme Court in the case of *Kumari Madhuri Patil vs Addl. Commissioner* vide order dated 02.09.1994 held as follows:

“15. High Court is not a court of appeal to appreciate the evidence. The Committee which is empowered to evaluate the evidence placed before it when records a finding of fact, it ought



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to prevail unless found vitiated by judicial review of any High Court subject to limitations of interference with findings of fact. The Committee when considers all the material facts and records a finding, though another view, as a court of appeal may be possible, it is not a ground to reverse the findings. The court has to see whether the Committee considered all the relevant material placed before it or has not applied its mind to relevant facts which have led the Committee ultimately record the finding. Each case must be considered in the backdrop of its own facts."

23. Therefore on the facts of the case, I am of the view that the 1st respondent is justified in concluding that the petitioner had failed to prove that he belonged to the Hindu Kattunayakan Scheduled Tribe community. Therefore the cancellation of the petitioner's certificate is justified and the same is confirmed.

24. Last but not least, this Court is of the view that the conduct of the petitioner is also suspicious and not above board. The petitioner in his original writ affidavit feigned ignorance of the community



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certificate issued to him on 26.09.1985 by the Tahsildar, Attur, which was the subject matter of scrutiny. The petitioner categorically stated

in para 'H' of the grounds as follows:

“H. It is submitted that the impugned order has been passed without proper application of mind. To cite an example the petitioner was issued a community certificate that he belongs to Kattunayakan Community on 17.03.1980 in proper format by the Tahsildar. The petitioner submits that he has not got any community certificate dated 29.05.1988 from any Tahsildar, Attur. Therefore the operative portion of the impugned order itself has been made without verification of factual details and without proper application of mind. The community certificate dated 29.05.1988 said to have been cancelled by the State Level Scrutiny Committee will have no bearing or impact on the community issue of the petitioner since the petitioner did not have any such certificate dated 29.05.1988. Hence the impugned order is liable to be set aside.”

25. The petitioner in his original affidavit categorically denied that he was ever issued with certificate dated 29.05.1988. The



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petitioner went to the extent of stating that the impugned order was vitiated, as it referred to the certificate dated 29.05.1988, where no such certificate was given to the petitioner. It was after rule nisi was issued on 01.03.2021 that the petitioner filed additional affidavit clarifying that what he meant by not having the certificate dated 29.05.1988, was that he had handed it over to the bank and he did not have the same. In my view, the conduct of the petitioner is to say the least unpalatable. Considering the aforesaid conduct of the petitioner, I am of the view that the observation of the Vigilance Cell that the petitioner was a habitual liar, cannot be faulted.

26. The framers of our constitution dreamt of an egalitarian society. The constitutional provisions and the scheme of reservation for the backward classes and the Scheduled Caste and Scheduled Tribe were meant to achieve the goal of equality, where all people irrespective of their religion, caste and sex would be treated equally with respect, dignity and honour. It is unfortunate, nay, dismaying



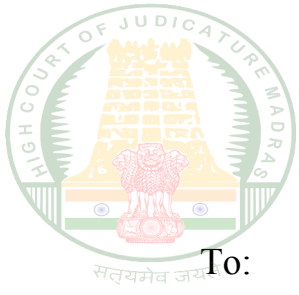
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that certain unscrupulous elements indulge in producing false certificates for the purpose of seeking employment and education, thus, depriving the truly deserving persons of their rights guaranteed under the constitution. Therefore, the Hon'ble Supreme Court has held that people who indulge in fraud for procuring the community certificate commit fraud not only on the society, but on the constitution. No wonder that the dream of Dr.Ambedkar, of achieving the goal of casteless and classless society 50 years ago still remains a dream!

In view of all the observations and discussions, the writ petition is dismissed and the impugned order dated 24.12.2020 is confirmed. Consequently connected Miscellaneous Petitions are closed. There shall be no order as to costs.

24.08.2023

dsn



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To:

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1. The Chairman,
Tamil Nadu State Level Scrutiny Committee – III,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maligai,
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2. The Deputy General Manager,
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3. The Deputy General Manager,
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J.NISHA BANU, J.,
and
N.MALA, J.,

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Dated:
24.08.2023

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