BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.11.2023

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD).No.12195 of 2023
and
W.M.P.(MD).Nos.10433, 10434 and 13818 of 2023

P.Maheswari .. Petitioner

Vs.

1.The Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Fort St.George,
Chennai.

2.The District Level Vigilance Committee,
Headed by the District Collector,
Theni District.

3.The District Adi Dravidar and Tribal Welfare Officer,
O/o the District Adi Dravidar and Tribal Welfare Officer,
Theni District.

4.The Revenue Divisional Officer,
Periyakulam,
Theni District.

5.The Tahsildar,
Periyakulam,
Theni District.

6.K.Parimurugan,
Assistant Professor,
Department of Anthropolgy,
University of Madras,
Chennai - 600 005.

7.Chinnathai .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, calling for the records relating to the impugned order passed by the second respondent in the proceedings in Na.Ka. 1233/2021/ஆதி5 dated 03.05.2023 and quash the same as illegal.

For Petitioner : Mr.R.Gandhi
Senior Advocate

For R-1 to R-5 : Mr.Veerakathiravan
Additional Advocate General
assisted by Mr.N.Satheesh Kumar
Additional Government Pleader

For R-7 : Mr.G.Thalaimutharasu

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM,J.)

The order of the District Level Vigilance Committee dated 03.05.2023, cancelling the community certificate of the writ petitioner, is under challenge in the present Writ Petition.

2. The petitioner claims that she belongs to "Kuravan" community, which is a scheduled caste community. Producing the community certificate, the petitioner participated in the process of local body elections and got elected as President of G.Kalluppatti Panchayat in the year 2019.

3. The rival candidate, who was unsuccessful in the election process, filed a complaint against the petitioner that she had submitted a false community certificate and contested in the election. Therefore, the community certificate is to be cancelled and consequentially, actions are to be initiated to remove her from the post of President. The District Level Vigilance Committee headed by the District Collector, Theni District conducted an enquiry based on the complaint and cancelled the community certificate granted in favour of the writ petitioner.

4. The petitioner filed W.P.(MD).No.8424 of 2021 and this Court passed final orders on 20.06.2022 as under:

> *"15. Accordingly, the writ petition is allowed and the impugned order passed by the fifth respondent, dated*

09.04.2021, is set aside. The District Level Vigilance Committee, Theni District, shall obtain a report from the Vigilance Cell and on the basis of the report and following the procedure prescribed in G.O.(2D) No.108, Adi Dravidar and Tribal Welfare (CV-I) Department, dated 12.09.2007 and the subsequent Government Order in G.O(Ms).No.106 Adi Dravidar and Tribal Welfare (CV-I) Department, dated 15.10.2012, fresh final order shall be passed, within a period of twelve weeks from the date of receipt of a report from the Vigilance Cell concerned. No Costs. Consequently, connected Miscellaneous Petitions are closed."

5. This Court, while remanding the matter, stated that the District Level Vigilance Committee shall obtain a report from the Vigilance Cell and on the basis of the report, by following the procedures prescribed in the Government Order, dispose of the complaint afresh within a period of twelve weeks. The said exercise was done by the District Level Vigilance Committee and the impugned order dated 03.05.2023 has been passed.

6. The learned Senior Counsel appearing for the petitioner mainly argued on the point that the District Level Vigilance Committee failed to

consider the documents produced by the petitioner and there are no findings with reference to the sanctity and the validity of the documents produced by the petitioner to establish her community.

7. The learned counsel appearing on behalf of the seventh respondent/complainant objected by stating that the Vigilance Cell submitted a detailed report, which would reveal that the petitioner do not belong to "Kuravan" community. The customary practices prevailing in Kuravan community was elaborately considered by the Vigilance Cell in its report, which would be sufficient to support the impugned order passed by the District Level Vigilance Committee. More so, it is a second round of litigation and the impugned order was passed based on the report of the Vigilance Cell and by considering the documents and by affording opportunity to the writ petitioner. Thus, the Writ Petition is liable to be rejected.

8. The learned Additional Advocate General appearing on behalf of the State in support of the order impugned contended that the exercise as directed by this Court in W.P.(MD).No.8424 of 2021 was completed in its

letter and spirit by the District Level Vigilance Committee. This Court remanded the matter with a direction to consider the report of the Vigilance Cell and by following the Government Orders. The District Level Vigilance Committee followed the procedures as contemplated under the Government Orders and considered the report of the Vigilance Cell and thus, there is no infirmity.

9. We have carefully gone through the order impugned. There is no iota of doubt that the District Level Vigilance Committee has considered the report of the Vigilance Cell and followed the procedures as contemplated under the Government Orders as directed by the Division Bench of this Court by order dated 20.06.2022 passed in W.P.(MD).No.8424 of 2021. The missing part of the impugned order is the discussions about the documents and the findings in the Vigilance Cell report and appreciation of the evidences produced before the Committee. Grant of community certificate or cancellation of community certificate would have a larger repercussion and will affect the future generation of the family concerned. Therefore, the authorities competent while conducting an enquiry are expected to be cautious and each and every document produced by the parties is to be

considered and a finding is to be made so as to remove any ambiguity in respect of the decision to be taken either to grant or cancel the community certificate. Any ambiguity would result in denial of basic right to the person, who seeks community certificate from the authorities.

10. In the present case, the petitioner produced 62 documents to establish her case before the District Level Vigilance Committee. However, none of those documents are referred to in the impugned order nor any findings are recorded appreciating or rejecting the evidences for the purpose of forming final opinion to cancel the community certificate issued in favour of the writ petitioner. Though the Anthropologist voluntarily submitted a report dated 09.11.2022, the same has not even referred or considered in the order impugned. Though such voluntary reports are filed, there is no impediment for the Committee to look into the sanctity of the report and to consider the issues in order to resolve the dispute. Since because it is a voluntary report, the same need not be neglected unless the Committee has gone into the report and found that there is no merit on such voluntary report of the Anthropologist. When there are reports in favour and against the petitioner, both the reports are to be considered and findings

are to be given on the basis of which report, the decision is taken. However, there is no such finding in the order impugned.

11. Since the order will affect the right of the petitioner and more so, she had already been elected for the post of President in local body elections, we are of the opinion that the matter is to be again remanded, though this Court normally would not resort to any remedy of remanding the matter. This case is an exception, wherein, we thought fit that the Committee has to go into the documents produced by the petitioner and the Vigilance report or any other report produced by the parties and make a categorical finding both factually and legally and thereafter, pass a reasoned order for arriving at a conclusion. The said exercise is directed to be completed by the District Level Vigilance Committee, Theni District within a period of four (4) weeks from the date of receipt of a copy of this order. The petitioner is directed to co-operate with the respondents for the disposal of the proceedings and unnecessary adjournments, if any sought for, to be rejected by the Committee.

12. Accordingly, the impugned order passed by the second respondent dated 03.05.2023 is quashed and the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S.,J.) (V.L.N.,J.)
02.11.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To
1.The Secretary to Government,
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S.M.SUBRAMANIAM,J.
and
V.LAKSHMINARAYANAN,J.

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