
(2013) 06 MAD CK 0260

In the Madras High Court

Case No : W.A. (MD) No's. 459 and 460 of 2013 and M.P. No's. 2 and 3 of 2013

Chairman, Tamil Nadu Public Service Commission

APPELLANT

Vs

M. Younus and Another

RESPONDENT

Date of Decision : 04-06-2013

Acts Referred:

Citation : (2014) 1 MLJ 232

Hon'ble Judges : P. Devadass, J;N. Paul Vasantha Kumar, J

Bench : Division Bench

Advocate : C.N.G. Nirai Mathi, for the Appellant; T. Lajapathy Roy, C. Selvaraj, Special Govt. Pleader, for the Respondent

Judgement

N. Paul Vasantha Kumar, J.—These writ appeals are directed against the common order made in W.P. Nos. 3745 and 7893 of/2012 dated 10.1.2013. The first respondent in both the writ appeals is one and the same person, who has filed both the writ petitions. W.P. No. 3745 of 2012 is filed to consider the claim for appointment to the post of Village Administrative Officer pursuant to the provisional selection communicated in memorandum dated 22.7.2011 on the file of the appellant herein. During pendency of the said writ petition, the claim of the writ petitioner/first respondent herein was rejected by order dated 20.3.2012, which was challenged in W.P. No. 7893 of 2012. Both the writ petitions were allowed by the learned single Judge by common order dated 10.1.2013, which is challenged in these appeals.

2. The case of the first respondent before the learned single Judge was that he had applied for selection to the post of Village Administrative Officer pursuant to the notification issued on 22.7.2011 and during pendency of the writ petition he was informed by communication dated 20.3.2012 that he could not be treated as BC (Muslim) candidate.

3. The first respondent initially belonged to Andipandaram community, which was classified as Most Backward Community. On 10.5.2009, first respondent

converted himself to Islam and he was issued with community certificate by the competent authority. Conversion of the first respondent from Hinduism to Islam had taken place prior to the notification of the TNPSC on 22.7.2011. The grievance of the first respondent herein is that though he secured the cut-off marks required for appointment under the category of Backward Community (Muslim), TNPSC treated him as a candidate belonging to open category on the ground that the conversion of the first respondent from Hinduism to Islam would not entitle him of the benefit of the community certificate obtained by him after conversion.

4. The learned single Judge, taking note of the undisputed fact of conversion of first respondent from Hinduism to Islam, as well as issuance of community certificate to the first respondent certifying that the first respondent is a Muslim Lebbai, allowed the writ petition stating that the TNPSC is bound by the community certificate issued by the competent authority. The said order is challenged in these appeals contending that conversion to another religion forfeits the reservation benefits. The learned single Judge considered the issue and gave a finding that conversion of the first respondent from Hinduism to Islam having not be disputed and the competent authority having issued community certificate, TNPSC cannot ignore the community certificate issued by the competent authority.

5. The issue as to the validity of the community certificate issued by the competent authority was considered in the decision reported in R. Kandasamy Vs. Chief Engineer, Madras Port Trust, . In the said decision it was held that so long as the community certificate issued by the competent authority is not cancelled, the authorities cannot decline to take into consideration the same and insist upon fresh community certificate from the Revenue Divisional Officer.

6. In the decision reported in Punit Rai Vs. Dinesh Chaudhary, it is held that the question whether a person belongs to a particular caste or not has to be determined by the statutory authority.

7. In view of the above decision and as the first respondent is having valid community certificate issued by the competent authority concerned certifying that he belongs to Muslim Lebbai, and the first respondent having secured the required cut-off marks for selection under the quota reserved for BC (Muslim), the learned single Judge was right in allowing the writ petitions.

8. The issue with regard to the jurisdiction of TNPSC to go into the genuineness of the community certificate was considered by the Full Bench of this Court in the decision reported in The Tamil Nadu Public Service Commission Vs. R. Manikandan and The Secretary, Adi Dravidar and Tribal Welfare Department, Government of Tamil Nadu . In the said decision it is held that the TNPSC has no jurisdiction to verify the information given in the community certificate and the TNPSC cannot withhold the results on the ground of verification of information given in the community certificate, which can be gone into only by the committee

constituted for the purpose. Thus, it is beyond doubt that TNPSC cannot decide the genuineness of the community certificate issued by the competent authority in favour of the first respondent is concerned. Only thing TNPSC can do is to issue appointment order stating that the appointment will be subject to verification of the community status and then send the community certificate for verification before the competent authority. In the light of the above cited decisions, we are not inclined to interfere with the order of the learned single Judge dated 10.1.2013. Consequently both the writ appeals are dismissed. No costs. Connected miscellaneous petitions are also dismissed.